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FEDERAL SECURITY AGENCY

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

16501–16550

FOODS

The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Federal Security Agency, and include, where indicated, the results of investigations of the Agency, prior to the institution of the proceedings. Published by direction of the Federal Security Administrator.

PAUL B. DUNBAR, *Commissioner of Foods and Drugs.*

WASHINGTON, D. C., *January 2, 1951.*

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BEVERAGES AND BEVERAGE MATERIALS

16501. Action to enjoin and restrain the interstate shipment of cherry juice. U. S. v. DeBadts Bros., a partnership, and Jacob J. DeBadts, Jr, Sarah K. DeBadts, Jay R. DeBadts, and Ralph O. DeBadts. Injunction granted. (Injunction No. 215.)

COMPLAINT FILED: September 12, 1949, Western District of New York, against DeBadts Bros., a partnership, and Jacob J. DeBadts, Jr., Sarah K. DeBadts, Jay R. DeBadts, and Ralph O. DeBadts, Sodus, N. Y.

NATURE OF CHARGE: That the defendants had been, and were at the time, introducing and delivering for introduction into interstate commerce, at Sodus, N. Y., cherry juice which was adulterated in the following respects: Section 402 (a) (3), the product consisted in whole or in part of filthy and decomposed substances, such as decayed fruit material; and, Section 402 (a) (4), the product had been, and was still being, prepared, packed, and held under insanitary conditions whereby it may have become contaminated with filth.

The complaint alleged that the filthy and decomposed substances of which the product consisted, in whole or in part, were derived from rotten, decayed, moldy, and wholly or partly fermented cherries which were pressed by the defendants to obtain the cherry juice; that the insanitary conditions of the defendants' plant consisted of, and resulted from, the presence of vinegar flies and other insects in and around the plant, including machinery and equipment used in preparing, packing, and holding the juice; and that the defendants continued to introduce and ship into interstate commerce, adulterated cherry juice, and would continue to so ship such cherry juice unless enjoined from so doing.

PRAYER OF COMPLAINT: That the defendants be perpetually enjoined from commission of the acts complained of, and that a preliminary injunction be granted during the pendency of the action.

DISPOSITION: March 1, 1950. The defendant firm having consented to the entry of a decree, the court issued an order perpetually enjoining the defendants from shipping in interstate commerce any cherry juice which was adulterated, as alleged in the complaint.

16502. Adulteration of tomato juice. U. S. v. Comstock Canning Corp. Plea of guilty. Fine, $500. (F. D. C. No. 29600. Sample Nos. 76614–K, 76622–K.)

INFORMATION FILED: August 7, 1950, Western District of New York, against the Comstock Canning Corp., Newark, N. Y.

ALLEGED SHIPMENT: On or about January 20 and 24, 1950, from the State of New York into the State of Missouri.

LABEL, IN PART: "Red Robe [or "American Lady" or "Topmost"] Tomato Juice * * * General Grocer Co. Distributors St. Louis, Mo."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of decomposed tomato material.

DISPOSITION: September 11, 1950. A plea of guilty having been entered, the court fined the corporation $500.

CEREALS AND CEREAL PRODUCTS

CORN MEAL

16503. Adulteration of corn meal. U. S. v. The Early & Daniel Co. Plea of guilty. Fine, $500. (F. D. C. No. 29422. Sample Nos. 47767–K, 52197–K, 52579–K, 52811–K, 52817–K.)

INFORMATION FILED: August 2, 1950, Southern District of Ohio, against The Early & Daniel Co., a corporation, Cincinnati, Ohio.

ALLEGED SHIPMENT: Between the approximate dates of August 30 and September 30, 1949, from the State of Ohio into the States of West Virginia, Kentucky, and Indiana.

LABEL, IN PART: "Tuxedo Bolted White Corn Meal Made By The Early & Daniel Co. Cincinnati, Ohio."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insects, larvae, larval heads, larval head capsules, adult insect heads, insect fragments, rodent hair fragments, and rodent excreta fragments.

DISPOSITION: September 1, 1950. A plea of guilty having been entered, the court fined the corporation $500.

16504. Adulteration and misbranding of enriched corn meal. U. S. v. 25 Bags, etc. (F. D. C. No. 29393. Sample No. 76452–K.)

LIBEL FILED: July 13, 1950, Eastern District of Arkansas.

ALLEGED SHIPMENT: On or about June 8, 1950, by the Scott County Milling Co., from Sikeston, Mo.

PRODUCT: Corn meal. 25 25-pound bags, 10 10-pound bags, and 10 5-pound bags at Little Rock, Ark.

LABEL, IN PART: (Bag) "Enriched * * * Bolted White Corn Meal."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), valuable constituents, thiamine (vitamin B_1) and riboflavin, had been in part omitted or abstracted from the article.

Misbranding, Section 403 (g) (1), the article purported to be, and was represented as, enriched corn meal, and it failed to conform to the definition and standard of identity for enriched corn meal since it contained less than 2.0 milligrams of thiamine (vitamin B_1) and less than 1.2 milligrams of riboflavin per pound.

DISPOSITION: August 28, 1950. Default decree of condemnation. The court ordered that the product be delivered to a State hospital, for use as animal feed.

FLOUR

16505. Action to enjoin and restrain the interstate shipment of flour and cereal products. U. S. v. Alleghany Milling Co., Inc., and John E. Watts and Joseph E. Moricle. Preliminary injunction granted; subsequently dissolved. (Injunction No. 211.)

COMPLAINT FILED: April 15, 1949, Western District of Virginia, against Alleghany Milling Co., Inc., Covington, Va., and John E. Watts, plant manager, and Joseph E. Moricle, head miller.

NATURE OF CHARGE: That the defendants had been, and were at the time, introducing and delivering for introduction into interstate commerce, at Covington, Va., flour and other cereal products which were adulterated in the following respects: Section 402 (a) (3), the products consisted in whole or in part of filthy substances, such as rodent excreta, rodent excreta pellet fragments, rodent hair fragments, adult insects, insect larvae, and insect fragments; and, Section 402 (a) (4), the products had been, and were still being, prepared and held under insanitary conditions whereby they may have become contaminated with filth. The complaint alleged further that the insanitary conditions in the defendants' plant consisted in, and resulted from, the presence of rodents, rodent excreta pellets and rodent excreta pellet fragments, rodent hairs, live insects and insect fragments, insect larvae, insect webbing, and nondescript dirt in and around machinery, equipment, and raw materials used for preparing and holding the food products, and also from inadequate equipment and general carelessness on the part of the defendants; that the defendants were aware that their activities violated the act; that the Alleghany Milling Co., Inc., had been convicted twice; that John E. Watts and Joseph E. Moricle had each been convicted once of violations of the act; that products shipped by the defendants' company had been seized and condemned; and that the defendants would continue to ship flour and cereal products in interstate commerce unless enjoined from so doing.

PRAYER OF COMPLAINT: That the defendants be perpetually enjoined from commission of the acts complained of, and that a preliminary injunction be granted during the pendency of the action.

DISPOSITION: May 3, 1949. The matter was heard before the court, and a preliminary injunction was entered enjoining the defendants from shipping in interstate commerce any flour or other cereal products which were adulterated. The preliminary injunction was extended at various times; and on July 13, 1950, upon motion of the defendants, the preliminary injunction was dissolved.

16506. **Adulteration of corn flour. U. S. v. 8 Bags * * *.** (F. D. C. No. 29230. Sample No. 55800–K.)

LIBEL FILED: On or about May 25, 1950, Western District of Missouri.

ALLEGED SHIPMENT: On or about January 5, 1950, from Milwaukee, Wis.

PRODUCT: 8 100-pound bags of corn flour at Kansas City, Mo., in possession of Midland Laboratories.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta and insects; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: June 23, 1950. Default decree of destruction.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS

16507. **Adulteration of rice. U. S. v. 145 Bags * * *.** (F. D. C. No. 29287. Sample No. 71524–K.)

LIBEL FILED: June 23, 1950, Southern District of California.

ALLEGED SHIPMENT: On or about December 15, 1949, from Houston, Tex.

PRODUCT: 145 100-pound bags of rice at Los Angeles, Calif., in possession of Casaus Bros.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: September 26, 1950. Casaus Bros., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for cleaning and reconditioning, under the supervision of the Food and Drug Administration. 3,200 pounds of rice was seized, and of this amount, 3,113 pounds of edible rice was salvaged.

16508. Adulteration of rice. U. S. v. 5 Bags * * *. (F. D. C. No. 29304. Sample No. 88179–K.)

LIBEL FILED: July 21, 1950, District of Colorado.

ALLEGED SHIPMENT: On or about November 21, 1949 from South Dos Palos, Calif.

PRODUCT: 5 100-pound bags of rice at Denver, Colo., in possession of the Mikawaya & Co. Warehouse.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: September 8, 1950. Default decree of condemnation. The court ordered that the product be sold for use as chicken feed.

16509. Adulteration of brewers rice. U. S. v. 50,000 Pounds * * *. (F. D. C. No. 29527. Sample No. 79121–K.)

LIBEL FILED: August 14, 1950, Western District of Washington.

ALLEGED SHIPMENT: On or about July 25, 1950, by the Rice Growers Assn. of California, from West Sacramento, Calif.

PRODUCT: 50,000 pounds of brewers rice at Olympia, Wash.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects and insect fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: August 18, 1950. The Rice Growers Assn. of California, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for conversion into stock feed, under the supervision of the Federal Security Agency.

16510. Adulteration of brewers grits. U. S. v. 274 Bags * * *. (F. D. C. No. 29293. Sample Nos. 69342–K, 69343–K.)

LIBEL FILED: June 30, 1950, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about May 31 and June 1, 1950, from Danville, Ill.

PRODUCT: 274 100-pound bags of brewers grits at Pittsburgh, Pa.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: July 25, 1950. Default decree of condmenation. The court ordered that the product be denatured and delivered to a feed milling company.

CONFECTIONERY

CANDY

16511. Adulteration of candy. U. S. v. Milko Cone & Baking Co., Inc. (Milko Candy Co.), and Samuel Leaf and Murray Weintraub. Pleas of guilty. Fine of $500 against each defendant. (F. D. C. No. 28201. Sample Nos. 43301–K, 43302–K, 43500–K, 45756–K.)

INFORMATION FILED: April 20, 1950, Northern District of Illinois, against the Milko Cone & Baking Co., Inc., trading as the Milko Candy Co., Chicago, Ill., and Samuel Leaf, president of the corporation, and Murray Weintraub, plant superintendent.

ALLEGED SHIPMENT: On or about August 10, 17, and 24, 1949, from the State of Illinois into the States of Indiana and Missouri.

LABEL, IN PART: "M. M. Cones" and "2-Hy Marshmallow Cones."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of insect fragments, insects, and rodent hairs; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: June 29, 1950. Pleas of guilty having been entered, the court imposed a fine of $500 against each of the defendants.

16512. Adulteration of candy. U. S. v. 5 Cases * * *. (F. D. C. No. 29299. Sample No. 72441–K.)

LIBEL FILED: July 12, 1950, Southern District of Ohio.

ALLEGED SHIPMENT: On or about June 8, 1950, by the Whole-Sum Products Co., from Philadelphia, Pa.

PRODUCT: 5 cases, each containing 12 1-pound packages, of candy at Cincinnati, Ohio.

LABEL, IN PART: "Stephen Perry Brand Jell-Eo-Mints."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect parts and dirt; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: September 15, 1950. Default decree of condemnation and destruction.

DAIRY PRODUCTS

BUTTER

The following cases report actions involving butter that consisted in whole or in part of a filthy or decomposed substance, **No. 16513**; that was below the legal standard for milk fat content, **Nos. 16513 and 16514**; and that was short of the declared weight, **No. 16515.**

16513. Adulteration of butter. U. S. v. 332 Cartons (21,248 pounds) * * *. (F. D. C. No. 29764. Sample No. 75774–K.)

LIBEL FILED: July 12, 1950, Northern District of Illinois.

ALLEGED SHIPMENT: On or about June 23, 1950, by the Parkston Creamery Co., from Parkston, S. Dak.

PRODUCT: 332 64-pound cartons of butter at Chicago, Ill.

LABEL, IN PART: (Carton) "Creamery Butter * * * L. D. Schreiber & Co. Inc. Sales Agent For The Marketing Association of America A Cooperative Distributors Chicago Illinois."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect fragments, rodent hairs, and manure fragments; and, Section 402 (b) (2), (1 churn) a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: August 7, 1950. The Marketing Assn. of America, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for conversion into inedible oil and grease, under the supervision of the Federal Security Agency.

16514. Adulteration of butter. U. S. v. William B. Pruitt (W. B. Pruitt Produce Co.). Plea of guilty. Fine, $25. (F. D. C. No. 26772. Sample No. 41816–K.)

INFORMATION FILED: April 25, 1949, Eastern District of Oklahoma, against William B. Pruitt, trading as the W. B. Pruitt Produce Co., Muskogee, Okla.

ALLEGED SHIPMENT: On or about December 6, 1948, from the State of Oklahoma into the State of Illinois.

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, milk fat, had been in part omitted; and, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: June 29, 1950. A plea of guilty having been entered, the defendant was fined $25.

16515. Misbranding of butter. U. S. v. 3 Cases * * *. (F. D. C. No. 29762. Sample No. 72917–K.)

LIBEL FILED: July 12, 1950, Eastern District of Kentucky.

ALLEGED SHIPMENT: On or about July 6, 1950, by French-Bauer, Inc., from Cincinnati, Ohio.

PRODUCT: 3 50-pound cases of butter at Covington, Ky.

LABEL, IN PART: (Retail carton) "Quarters One Pound Net Weight Clover Blossom Brand Creamery Butter."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the package containing the article did not bear an accurate statement of the quantity of the contents since the statement "One Pound Net" was incorrect. (Analysis showed that the product was short of the declared weight.)

DISPOSITION: August 4, 1950. French-Bauer, Inc., claimant, having admitted the facts set forth in the libel, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency.

CHEESE

16516. Adulteration of goat cheese. U. S. v. George A. Dardanes. Plea of nolo contendere. Fine, $600. (F. D. C. No. 29176. Sample Nos. 42949–K, 42950–K, 60451–K, 61459–K.)

INFORMATION FILED: May 22, 1950, District of Colorado, against George A. Dardanes, Trinidad, Colo.

ALLEGED SHIPMENT: On or about October 5 and 26 and November 30, 1949, from the State of Colorado into the States of Missouri and Illinois.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of fly egg capsules, fly eggs, feather barbules, rodent hairs, maggots, setae, manure, threads, carbon, hairs resembling cat or dog hairs, insect parts, and vegetable material.

DISPOSITION: July 6, 1950. A plea of nolo contendere having been entered, the court fined the defendant $600.

16517. Misbranding of cream cheese and creamed cottage cheese. U. S. v. Sante Foods, Inc., and Joel Taub. Pleas of guilty. Corporation fined $300. Individual defendant fined $3.00; fine remitted. (F. D. C. No. 26697. Sample Nos. 8296–K, 8297–K, 9994–K, 11422–K, 11423–K.)

INFORMATION FILED: December 6, 1949, Southern District of New York, against Sante Foods, Inc., New York, N. Y., and Joel Taub, secretary.

ALLEGED SHIPMENT: On or about April 26 and December 13 and 16, 1948, from the State of New York into the States of New Jersey and Connecticut.

LABEL, IN PART: "Santé Creamed Cottage Cheese" and "Santé Cream Cheese."

NATURE OF CHARGE: Creamed cottage cheese. Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for creamed cottage cheese since it contained less than 4 percent by weight of milk fat and more than 80 percent of moisture.

Cream cheese. Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for cream cheese since it contained more than 55 percent of moisture, and, in addition, one shipment contained less than 33 percent of milk fat.

DISPOSITION: September 18, 1950. Pleas of guilty having been entered, the corporation was fined $300 and the individual defendant $3.00. The $3.00 fine was remitted.

16518. Adulteration of cheese. U. S. v. 245 Cases * * *. (F. D. C. No. 29278. Sample No. 79732–K.)

LIBEL FILED: June 16, 1950, District of Vermont.

ALLEGED SHIPMENT: Between October 1949, and April 1950, from Chicago, Ill., New York, N. Y., and Boston, Mass.

PRODUCT: 245 cases, each containing 12 16-ounce jars, of cheese at Hinesburg, Vt. These were return shipments.

LABEL, IN PART: "Aspro Cheese Aged In Brine."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: October 11, 1950. Default decree of forfeiture and destruction.

MISCELLANEOUS DAIRY PRODUCTS

16519. Adulteration of condensed buttermilk. U. S. v. 85 Barrels * * *. (F. D. C. No. 28642. Sample Nos. 52767–K, 52770–K.)

LIBEL FILED: January 12, 1950, Southern District of Indiana.

ALLEGED SHIPMENT: On or about October 13, 1949, by the Bowser Sales & Trading Corp., from Sistersville, W. Va.

PRODUCT: 85 barrels of condensed buttermilk at Indianapolis, Ind.

LABEL, IN PART: "Semi-Solid Buttermilk Milk Solids Including Lactic Acid 27% Protein 9½% Fat 2% Net Weight 352."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), valuable constituents, milk solids and fat, had been in whole or in part omitted or abstracted from the article. (Analysis showed that the article contained less than the declared amounts of milk solids and fat.)

DISPOSITION: July 20, 1950. The Bowser Sales & Trading Corp., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond for reprocessing, under the supervision of the Food and Drug Administration.

16520. Adulteration and misbranding of oleomargarine. U. S. v. 11 Cases * * *. (F. D. C. No. 29358. Sample No. 79440–K.)

LIBEL FILED: June 8, 1950, District of Massachusetts.

ALLEGED SHIPMENT: On or about March 27, 1950, by Swift & Co., from Jersey City, N. J.

PRODUCT: 11 cases, each containing 24 1-pound cartons, of oleomargarine at Bedford, Mass. Analysis showed that the product contained an average of 75.93 percent fat.

LABEL, IN PART: (Carton) "Gem Margarine Fortified With Vitamin A * * * Oleomargarine."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent fat had been substituted for oleomargarine.

Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for oleomargarine since it contained less than 80 percent fat.

DISPOSITION: August 22, 1950. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution.

EGGS

16521. Misbranding of eggs. U. S. v. 46 Cartons * * *. (F. D. C. No. 29382. Sample No. 3390–K.)

LIBEL FILED: June 30, 1950, District of Columbia.

PRODUCT: 46 cartons each containing 1 dozen eggs in interstate commerce at Washington, D. C., in possession of the District Egg Co.

LABEL, IN PART: (Carton) "Good Morning Eggs Grade A Large."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label statement "Grade A" was false and misleading since 55.4 percent of the eggs were below Grade A.

DISPOSITION: July 7, 1950. The owner of the product having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be delivered to a local hospital for its use and not for sale.

16522. Misbranding of eggs. U. S. v. 17 Cases * * *. (F. D. C. No. 29380. Sample No. 3385–K.)

LIBEL FILED: June 29, 1950, District of Columbia.

PRODUCT: 17 cases each containing 30 cartons of 1 dozen eggs each in interstate commerce at Washington, D. C., in the possession of I. Feldman & Co., Inc.

NATURE OF CHARGE: Misbranding, Section 403 (a), the label designation "Grade A" was false and misleading since a large percentage of the eggs were below Grade A; and, Section 403 (e) (1), the article failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor.

DISPOSITION: July 3, 1950. I. Feldman & Co., Inc., Washington, D. C., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency. The eggs were regraded, with the result that approximately 16 cases were classified as Grade B and approximately 12 dozen eggs as Grade C. The remainder, approximately 11 dozen, consisted of checks and broken eggs.

16523. Adulteration and misbranding of frozen whole eggs. U. S. v. 110 Cans * * *. (F. D. C. No. 29344. Sample No. 60220–K.)

LIBEL FILED: June 8, 1950, Northern District of Illinois.

ALLEGED SHIPMENT: On or about June 9, 1949, by the Roberts Egg Products Co., from Kansas City, Kans.

PRODUCT: 110 cans, each containing 30 pounds, of frozen whole eggs at Chicago, Ill.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed eggs.

Misbranding, Sections 403 (e) (1) and (2), the article failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the contents; and, Section 403 (g) (2), the article purported to be, and was represented as, frozen whole eggs, a food for which a definition and standard of identity has

been prescribed by regulations, and its label failed to bear the name of the food specified in such definition and standard.

DISPOSITION: July 18, 1950. Default decree of condemnation and destruction.

FEEDS AND GRAINS

16524. Adulteration and misbranding of Simmons Pail-O-Melk. U. S. v. 40 Drums * * *. (F. D. C. No. 29330. Sample No. 72744–K.)

LIBEL FILED: May 19, 1950, Southern District of Ohio.

ALLEGED SHIPMENT: On or about April 26, 1950, by Stock-Gro, Inc., from Mayville, Wis.

PRODUCT: 40 25-pound drums of Simmons Pail-O-Melk at Coshocton, Ohio.

LABEL, IN PART: (Drum) "Simmons Pail-O-Melk For Calves Analysis Per Pound (minimum) * * * Protein ____ 25% Fat ____ 2% * * * Ingredients: Non-Fat Dried Milk Solids, Alfalfa Leaf Meal, Ground Rolled Oats, Soy Bean Meal, Wheat Germ, Vitamin A Feeding Oil, Mixed Minerals."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), valuable constituents, namely, protein, fat, alfalfa leaf meal, rolled oats, soybean meal, wheat germ, and mixed minerals, had been in whole or in part omitted or abstracted from the article.

Misbranding, Section 403 (a), the label statements "Analysis Per Pound: (Minimum) * * * Protein ____ 25% Fat ____ 2% * * * Ingredients: * * * Alfalfa Leaf Meal, Ground Rolled Oats, Soy Bean Meal, Wheat Germ * * * Mixed Minerals * * *" were false and misleading since the article contained less than the declared amounts of protein and fat and no detectable amounts of alfalfa leaf meal, ground rolled oats, soybean meal, wheat germ, and mixed minerals; and, Section 403 (i) (2), the article was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient since the presence of yellow corn meal was not declared.

DISPOSITION: July 24, 1950. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for use as stock feed.

16525. Misbranding of stock feed. U. S. v. 371 Unlabeled Bags * * *. (F. D. C. No. 29481. Sample No. 72503–K.)

LIBEL FILED: July 8, 1950, Southern District of Indiana.

ALLEGED SHIPMENT: On or about May 27, 1950, by the Lexington Feed Mills, from Bowling Green, Ky.

PRODUCT: 371 bags, containing approximately 37,600 pounds, of stock feed at Perrysville, Ind. Examination showed that the article was a powder consisting essentially of bean seed, cocoa shell, limestone, rye, soybean, oats, corn, cottonseed, sugar, salt, alfalfa, and wheat.

NATURE OF CHARGE: Misbranding, Sections 403 (e) (1) and (2), the product failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the contents; and, Section 403 (i) (2), the product was fabricated from two or more ingredients, and it failed to bear a label containing the common or usual name of each such ingredient.

DISPOSITION: September 7, 1950. Default decree of forfeiture and destruction.

FISH AND SHELLFISH

16526. Adulteration of cured salmon. U. S. v. 12 Tierces * * *. (F. D. C. No. 29076. Sample No. 10356–K.)

LIBEL FILED: April 20, 1950, District of New Jersey.

ALLEGED SHIPMENT: On or about May 25, 1949, by Harry Weinstein & Sons, Ltd., from Brooklyn, N. Y.

PRODUCT: 12 tierces, each containing 850 pounds, of cured salmon at Neptune, N. J.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a putrid substance.

DISPOSITION: June 27, 1950. Default decree of condemnation. The court ordered that the product be sold for conversion into fertilizer or nonedible industrial fish oil, under the supervision of the United States marshal. The decree provided further that if the product was converted into oil, the oil should not be used in any cosmetic.

16527. Adulteration of frozen whiting. U. S. v. 30 Boxes * * *. (F. D. C. No. 29201. Sample No. 76797–K.)

LIBEL FILED: April 28, 1950, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about March 20, 1950, by the Booth Fisheries Corp., from North Truro, Mass.

PRODUCT: 30 15-pound boxes of frozen whiting at St. Louis, Mo.

LABEL, IN PART: "Famous Booth Seafoods H & G Scaled Whiting."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish.

DISPOSITION: May 25, 1950. Default decree of condemnation and destruction.

16528. Misbranding of oysters. U. S. v. William G. Taylor, Jr. (W. G. Taylor, Jr.). Plea of guilty. Fine, $100 (F. D. C. No. 29159. Sample Nos. 47217–K, 47218–K, 47948–K, 47949–K.)

INFORMATION FILED: June 19, 1950, Eastern District of Virginia, against William G. Taylor, Jr., trading as W. G. Taylor, Jr., White Stone, Va.

ALLEGED SHIPMENT: On or about December 13 and 15, 1949, from the State of Virginia into the State of Pennsylvania.

LABEL, IN PART: (Can) "Silver Sea Brand Oysters * * * Oysters Standards [or "Oysters Selects"]."

NATURE OF CHARGE: Misbranding, Section 403 (g) (1), the product failed to conform to the definitions and standards of identity for oysters standards and oysters selects since the total time the oysters were in contact with water after leaving the shucker was more than thirty minutes.

DISPOSITION: September 13, 1950. A plea of guilty having been entered, the court fined the defendant $100.

16529. Adulteration of canned shrimp. U. S. v. 184 Cases * * *. (F. D. C. No. 28560. Sample No. 50089–K.)

LIBEL FILED: December 15, 1949, Western District of Washington.

ALLEGED SHIPMENT: On or about November 3, 1949, by Pelican Lake Oyster & Packing Co., Ltd., from Houma, La.

PRODUCT: 184 cases, each containing 48 5-ounce cans, of shrimp at Seattle, Wash.

LABEL, IN PART: "Pel-La-Co Louisiana Shrimp."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed shrimp.

DISPOSITION: February 21, 1950. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation of the fit from the unfit portion, under the supervision of the Food and Drug Administration. 155 cases and 33 cans were destroyed.

FRUITS AND VEGETABLES*

CANNED FRUIT

16530. Adulteration of canned blueberries. U. S. v. David Harum Canning Co., Inc., Lawrence R. Small, and King Ward. Pleas of guilty. Each defendant fined $100. (F. D. C. No. 26745. Sample No. 41206–K.)

INFORMATION FILED: February 9, 1950, Northern District of New York, against David Harum Canning Co., Inc., Homer, N. Y., Lawrence R. Small, president, and King Ward, secretary-treasurer.

ALLEGED SHIPMENT: On or about September 13, 1948, from the State of New York into the State of Washington.

LABEL, IN PART: "Sea-Land Selected Blueberries In Water Packed by Sea-Land Foods Corp., Boston, Mass."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a decomposed substance by reason of the presence of decomposed blueberries.

DISPOSITION: Pleas of guilty having been entered, Lawrence R. Small was fined $100 on February 28, 1950, and David Harum Canning Co., Inc., and King Ward were each fined $100 on May 9, 1950.

16531. Misbranding of canned cherries. U. S. v. 187 Cases * * *. (F. D. C. No. 28420. Sample No. 43308–K.)

LIBEL FILED: January 9, 1950, Northern District of Illinois.

ALLEGED SHIPMENT: On or about July 12, 1949, by the Coloma Cooperative Canning Co., from Coloma, Mich.

PRODUCT: 187 cases, each containing 6 6-pound, 9-ounce cans, of cherries at Chicago, Ill.

LABEL, IN PART: "Great Lakes Red Tart Pitted Cherries In Water Packed By Farm Bureau Fruit Products Co., Lansing, Mich."

NATURE OF CHARGE: Misbranding, Section 403 (h) (2), the product fell below the standard of fill of container for canned cherries since there was not present in the container the maximum quantity of the optional cherry ingredient which

*See also No. 16501.

can be sealed in the container and processed by heat to prevent spoilage, without crushing the ingredient, and its label failed to bear a statement that the product fell below the standard.

DISPOSITION: October 2, 1950. The Chicago Bakers' Cooperative Assn. of Chicago, Ill., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond, to be relabeled under the supervision of the Food and Drug Administration.

FROZEN FRUIT

16532. Adulteration of frozen strawberries. U. S. v. 500 Cases * * *. (F. D. C. No. 26926. Sample No. 41145–K.)

LIBEL FILED: April 12, 1949, District of Hawaii.

ALLEGED SHIPMENT: On or about March 11, 1949, by the Del Rey International Co., San Francisco, Calif.

PRODUCT: 500 cases, each containing 1 30-pound can, of frozen strawberries at Honolulu, T. H.

LABEL, IN PART: "Sound Pak Brand Marshall Strawberries * * * Grown and Packed By Sound Fruit Growers Association, Incorporated, Sumner, Washington."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed berries.

DISPOSITION: September 20, 1950. Decree of condemnation and destruction.

VEGETABLES AND VEGETABLE PRODUCTS

16533. Misbranding of canned green beans. U. S. v. 119 Cases * * *. (F. D. C. No. 29227. Sample No. 50994–K.)

LIBEL FILED: May 23, 1950, District of Oregon.

ALLEGED SHIPMENT: On or about February 3, 1950, by Washington Packers, Inc., from Sumner, Wash.

PRODUCT: 119 cases, each containing 24 1-pound, 3-ounce cans, of green beans at Portland, Oreg.

LABEL, IN PART: "Rainer Brand Blue Lake Variety Cut Green Beans."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned green beans since it contained an excessive number of tough strings and was not labeled to indicate that it was substandard.

DISPOSITION: July 11, 1950. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond, to be relabeled under the supervision of the Food and Drug Administration.

16534. Adulteration and misbranding of canned corn. U. S. v. The Tom Corwin Canning Co. and Herschel N. Bunnell. Pleas of guilty. Firm fined $600; individual defendant fined $300. (F. D. C. No. 29597. Sample Nos. 52914–K, 60746–K to 60748–K, incl., 63710–K, 72085–K.)

INFORMATION FILED: July 10, 1950, Southern District of Ohio, against The Tom Corwin Canning Co., a corporation, Lebanon, Ohio, and Herschel N. Bunnell, president and treasurer of the corporation.

ALLEGED SHIPMENT: Between the approximate dates of February 10 and August 8, 1949, from the State of Ohio into the States of Kentucky, Tennessee, Georgia, and Indiana.

LABEL, IN PART: "Red Rose Golden [or "Cream Style White" or "Cream Style Golden"] Sweet Corn" and "Honey Dew * * * Sugar Corn."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a decomposed substance by reason of the presence of decomposed corn.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for canned cream style corn since the product had not been sealed in a container and so processed by heat as to prevent spoilage.

DISPOSITION: September 1, 1950. Pleas of guilty having been entered, the court fined the corporation $600 and the individual defendant $300.

16535. Adulteration of dried mushrooms and mushroom salt. U. S. v. Cultured Mushroom Industries, Inc., and Arthur Thomas Lelles. Pleas of guilty. Corporation fined $100 on count 1 and $1.00 on each of counts 2 and 3. Individual sentenced to serve, in a Federal prison camp, 6 months on count 1 and 1 day on each of counts 2 and 3, the sentences on each count to be served concurrently. (F. D. C. No. 28178. Sample Nos. 40803–K to 40805–K, incl.)

INFORMATION FILED: January 31, 1950, Western District of Washington, against Cultured Mushroom Industries, Inc., Seattle, Wash., and Arthur Thomas Lelles, president of the corporation.

ALLEGED SHIPMENT: On or about May 22, 1949, from the State of Washington into the State of Nevada.

LABEL, IN PART: "Reliable Quality Brand [or "Genuine Cultured Brand"] Dried Mushrooms" and "Cultured Mushroom Salt Made from Cultured Dried Mushrooms seasoned with salt."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in part of filthy substances by reason of the presence of (in the dried mushrooms) worms, insects, insect and worm fragments, insect excreta pellets, and insect-damaged mushroom material, and (in the mushroom salt) worm and insect fragments and insect excreta pellets.

DISPOSITION: August 7, 1950. Pleas of guilty having been entered, the court fined the corporation $100 on count 1 and $1.00 on each of counts 2 and 3, and sentenced the individual to serve, in a Federal prison camp, 6 months on count 1 and 1 day on each of counts 2 and 3. The sentences were to be served concurrently.

16536. Adulteration of canned spinach. U. S. v. 137 Cases * * *. (F. D. C. No. 29273. Sample No. 75012–K.)

LIBEL FILED: June 20, 1950, District of Colorado.

ALLEGED SHIPMENT: On or about May 10, 1950, by the Larsen Co., from Green Bay, Wis.

PRODUCT: 137 cases, each containing 24 15-ounce cans, of spinach at Denver, Colo.

RESULTS OF INVESTIGATION: Samples of this product were found to contain larvae, thrips, and aphids, and small pieces of wood.

LABEL, IN PART: "Larsen's Freshlike Brand Cut Spinach."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects; and, Section 402 (b) (2), wood had been substituted in part for spinach.

DISPOSITION: July 26, 1950. The Larsen Co. having executed an acceptance of service and authorization for taking of final decree, judgment of condemnation was entered and the court ordered that the product be destroyed.

16537. Adulteration of corn husks. U. S. v. 28 Bales * * *. (F. D. C. No. 28900. Sample No. 71467–K.)

LIBEL FILED: March 14, 1950, Southern District of California.

ALLEGED SHIPMENT: On or about October 13, 1949, from Manzanillo, Colima, Mexico.

PRODUCT: 28 70-pound bales of corn husks at Los Angeles, Calif.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect parts and rodent hairs, and of a decomposed substance by reason of the presence of mold. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: April 24, 1950. The Superior Food Products Co., Los Angeles, Calif., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. The product was reconditioned by trimming, cutting, and hand sorting resulting in the salvage of 580 pounds of husks. The rejects, amounted to 1,120 pounds, were destroyed.

TOMATOES AND TOMATO PRODUCTS*

16538. Adulteration and misbranding of canned tomatoes. U. S. v. 716 Cases * * *. Decree of condemnation. Product ordered released for relabeling. Petition for review by court of appeals filed by Government. Order for relabeling reversed. Product ordered destroyed. (F. D. C. No. 25741. Sample No. 23417–K.)

LIBEL FILED: September 10, 1948, Eastern District of Oklahoma.

ALLEGED SHIPMENT: On or about July 26 and August 2, 1948, by the Whitten Bros. Canning Co., from Paris, Tex.

PRODUCT: 716 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Duncan, Okla.

LABEL, IN PART: "Del Comida Brand Tomatoes."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing added water had been substituted in whole or in part for canned tomatoes.

Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for canned tomatoes since it contained added water which is not permitted as an ingredient of canned tomatoes; and, Section 403 (h) (1), the article fell below the standard of quality for canned tomatoes since the drained weight of the contents of the container of the article was less than 50 percent of the weight of water required to fill the

*See also No. 16502.

container, and its label failed to bear a statement that the article fell below the standard.

DISPOSITION: On April 18, 1949, Alfred Whitten and Harold Whitten, doing business as the Whitten Bros. Canning Co., claimants, having admitted the allegations of the libel and having requested permission to relabel the product, the court, after consideration of the pleadings and arguments of counsel, handed down findings of fact and conclusions of law that the article was misbranded as alleged in the libel; but that the addition of water did not constitute within the meaning of the law an adulteration, or such other condition as to prevent under applicable provisions of law such relabeling as would properly show the contents of the article since it was, despite the adding of water, a wholesome food. On the same date, the court entered a decree of condemnation and ordered the product released under bond for relabeling under the supervision of the Federal Security Agency. The Government appealed to the United States Court of Appeals for the Tenth Circuit from that portion of the decree directing that the product be released for relabeling, and on January 5, 1950, the following decision was handed down by that court:

MURRAH, *Circuit Judge:* "Pursuant to Section 304 (a) of the Federal Food, Drug and Cosmetic Act, 52 Stat. 1040 et seq., 21 U. S. C. A. 334 (a), a libel of information was filed by the United States for the seizure and condemnation of 716 cases of canned food labeled in part 'Del Comida Brand Tomatoes Contents 1 Lb. 3 Oz.' The libel alleged that the food was adulterated within the meaning of 21 U. S. C. A. 342 (b) (2) in that a product containing water had been substituted wholly or in part for canned tomatoes; and that the product was also misbranded within the meaning of 21 U. S. C. A. 343 (g) (1) in that it failed to conform to the definition and standard of canned tomatoes as prescribed by Regulations 53.41 (a) (1) promulgated by the Federal Security Administrator pursuant to 21 U. S. C. A. 341. In their answer, as claimants, Alfred Whitten and Harold Whitten, doing business as Whitten Brothers Canning Company, Paris, Texas, admitted the allegations of adulteration and misbranding, but requested permission to relabel the food on the ground that it was wholesome and fit for human consumption, and that reprocessing the product into tomato puree, catsup or any other similar product would be extremely expensive.

"Upon the pleadings, and after a pretrial hearing, the trial court found that the article, although misbranded and adulterated, was not adulterated within the meaning of 21 U. S. C. A. 342 (b) (2). It accordingly provided in the decree of condemnation that the article be released to the claimant for the purpose of truthful labeling. The Government has appealed from that portion of the decree which directed that the article be released to the claimant for relabeling.

"Section 334 (d) of the Act provides that the court may, under prescribed conditions, direct that the condemned article be delivered to the owner thereof to be destroyed or brought into compliance with the provisions of the Act under the supervision of an officer or employee. But nothing in this section of the Act authorizes the court to permit the introduction in interstate commerce of any article of food that is adulterated, though truthfully labeled.

"Section 342 (b) (2) provides that 'A food shall be deemed to be adulterated * * * if any substance has been substituted wholly or in part therefor.' The Government contends here that because of the added or substituted water, the product is adulterated and cannot therefore be introduced in interstate commerce, though truthfully labeled.

"21 U. S. C. A. 341 provides that 'Whenever in the judgment of the Administrator such action will promote honesty and fair dealing in the interest of consumers, he shall promulgate regulations fixing and establishing for any food, under its common or usual name so far as practicable, a reasonable definition and standard of identity, a reasonable standard of quality, and/or reasonable standards of fill of container * * *.' It is conceded that because of the addition of water, the article falls below the standard of canned

tomatoes prescribed by Section 53.41 (a) (1) of regulations promulgated by the Administrator pursuant to 21 U. S. C. A. 341 (Sec. 401 of the Act). But, it is argued by the claimants, that since the food is wholesome and fit for human consumption, it could be sold under correct labeling and the purchaser would therefore not be misled. The Government counters with the proposition that once an article has been condemned as adulterated, its contraband character cannot be cured by a truthful statement of the manner in which it is adulterated, and the fact that it is fit for human consumption is immaterial.

"The test of adulteration within the meaning of the Act does not turn upon whether the article is non-injurious and fit for human consumption. The Act was not intended to be confined to misbranding and the addition of adulterated substances deleterious to the health of consumers. It provides protection to the consumer from 'economic adulteration' by which less expensive ingredients are substituted, or the proportion of more expensive ingredients is diminished so as to make the commonly identified article inferior to that which the consumer would expect to receive when purchasing it, although not in itself deleterious. Federal Security Adm. v. Quaker Oats Co., 318 U. S. 218; United States v. 36 Drums of Pop'n Oil, 164 F. 2d 250; United States v. 2 Bags, etc., 147 F. 2d 123.

"The term 'canned tomatoes' is certainly a common or usual name for a standard article, and concededly by the addition of the water, the article under seizure here falls below the standard of quality of canned tomatoes provided in Section 53.41 of regulations promulgated by the Federal Security Agency; and is adulterated in that a substance has been substituted wholly or in part therefor. The use of a substandard label does not raise the standard of identity to comply with the Act and regulations.

"It thus becomes unnecessary to consider whether the article was also misbranded within the meaning of Section 403 (g) of the Act (21 U. S. C. A. 343 (g) (1)). The judgment is reversed."

In accordance with the foregoing opinion and in view of the failure by the claimant in requesting permission for the release of the product for reprocessing, an order was entered on June 26, 1950, directing that the product be destroyed. The product was disposed of for use as hog feed.

16539. Adulteration of tomato catsup. U. S. v. Perry Canning Co. Plea of guilty. Fine, $500. (F. D. C. No. 29606. Sample No. 76606–K.)

INFORMATION FILED: August 25, 1950, District of Utah, against the Perry Canning Co., a corporation, Perry, Utah.

ALLEGED SHIPMENT: On or about August 23, 1949, from the State of Utah into the State of Missouri.

LABEL, IN PART: "Mountain Made Tomato Catsup * * * Perry Canning Co. Perry, Utah."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a decomposed substance.

DISPOSITION: August 25, 1950. A plea of guilty having been entered, the court fined the corporation $500.

16540. Adulteration of tomato puree. U. S. v. 213 Cases * * *. (F. D. C. No. 28846. Sample No. 64471–K.)

LIBEL FILED: February 9, 1950, District of Minnesota.

ALLEGED SHIPMENT: On or about September 27, October 21, and November 13, 1949, by the Lomax Canning Co., from Lomax, Ill.

PRODUCT: 213 cases, each containing 6 6-pound, 8-ounce cans of tomato puree at Minneapolis, Minn.

LABEL, IN PART: (Can) "Mississippi Valley Brand Tomato Puree."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: October 9, 1950. The shipper having appeared as claimant and consented to the entry of a decree, the court ordered that the product be destroyed unless denatured and disposed of as animal feed by the marshal, under the supervision of the Food and Drug Administration.

NUTS AND NUT PRODUCTS

16541. Adulteration of pecan pieces. U. S. v. 22 Cartons * * *. (F. D. C. No. 28860. Sample No. 72204–K.)

LIBEL FILED: February 13, 1950, Northern District of Ohio.

ALLEGED SHIPMENT: On or about January 12, 1950, by the Monticello Pecan Co., Tallahassee, Fla.

PRODUCT: 22 20-pound cartons of pecan pieces at Cleveland, Ohio.

LABEL, IN PART: "Amber Pecan Pieces."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of rancid, moldy, and otherwise decomposed pecan pieces.

DISPOSITION: September 13, 1950. Default decree of condemnation and destruction.

16542. Adulteration of peanut butter. U. S. v. 2 Drums * * *. (F. D. C. No. 29301. Sample No. 75954–K.)

LIBEL FILED: July 14, 1950, Southern District of Iowa.

ALLEGED SHIPMENT: On or about June 21, 1950, by the Millard-United Co., from Chicago, Ill.

PRODUCT: 2 drums, containing 969 pounds, of peanut butter at Davenport, Iowa.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: September 11, 1950. Default decree of condemnation and destruction.

16543. Adulteration and misbranding of peanut butter. U. S. v. 5 Cases * * *. (F. D. C. No. 29360. Sample No. 57567–K.)

LIBEL FILED: June 9, 1950, Eastern District of New York.

ALLEGED SHIPMENT: On or about April 19, 1950, by the Newark Packing Co., from Newark, N. J.

PRODUCT: 5 cases, each containing 24 unlabeled 1-pound jars, of peanut butter at Baldwin, Long Island, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

Misbranding, Sections 403 (e) (1) and (2), the article failed to bear a label containing the name and place of business of the manufacturer, packer, or

distributor, and an accurate statement of the quantity of the contents; Section 403 (i) (1), it failed to bear a label containing the common or usual name of the article; and, Section 403 (i) (2), it was fabricated from two or more ingredients, and it failed to bear a label containing the common or usual name of each such ingredient.

DISPOSITION: July 27, 1950. Default decree of condemnation and destruction.

OILS AND FATS

16544. Adulteration and misbranding of oil. U. S. v. 5 Cases * * *. (F. D. C. No. 28718. Sample No. 57230–K.)

LIBEL FILED: February 23, 1950, Southern District of New York.

ALLEGED SHIPMENT: On or about August 29, 1949, by John Minervini, from Hoboken, N. J.

PRODUCT: 5 cases, each containing 6 1-gallon cans, of oil at New York, N. Y.

LABEL, IN PART: (Can) "Contents One Gallon Net Fabiola Brand 90% Peanut Oil 10% Pure Imported Olive Oil Packed by Fabiola Food Products Hoboken, N. J."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), an oil the nature of soya oil had been substituted for peanut oil.

Misbranding, Section 403 (a), the label statement "90% Peanut Oil" was false and misleading; and, Section 403 (k), the article contained artificial flavoring and failed to bear labeling stating that fact.

DISPOSITION: June 9, 1950. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution for consumption, and not for sale.

16545. Adulteration and misbranding of oil. U. S. v. 4 Cases * * *. (F. D. C. No. 29346. Sample No. 73977–K.)

LIBEL FILED: On June 5, 1950, District of Connecticut.

ALLEGED SHIPMENT: On or about April 14, 1950, by Santuzza Oil Co., Inc., from Brooklyn, N. Y.

PRODUCT: 4 cases, each containing 6 1-gallon cans, of oil at Bridgeport, Conn.

LABEL, IN PART: (Can) "Santuzza Brand A Blend of 80% Corn and Peanut Oil 20% Pure Olive Oil."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, olive oil, had been in whole or in part omitted from the article.

Misbranding, Section 403 (a), the label designation "20% Pure Olive Oil" was false and misleading as applied to an article which contained little, if any, olive oil; and, Section 403 (k), the article contained artificial coloring and failed to bear labeling stating that fact.

DISPOSITION: July 18, 1950. Default decree of condemnation. The court ordered that the product be delivered to charitable institutions.

SPICES, FLAVORS, AND SEASONING MATERIALS*

16546. Adulteration of paprika. U. S. v. 150 Bundles * * * (and 1 other seizure action). (F. D. C. Nos. 28942, 28958. Sample Nos. 34419–K, 34784–K.)

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*See also No. 16535.

LIBELS FILED: April 4 and 12, 1950, Northern District of California.

ALLEGED SHIPMENT: On or about October 10 and December 31, 1949, by Cia Industrial Vera, from Valparaiso, Chile.

PRODUCT: 157 bundles, each containing 2 55-pound bags, of paprika at San Francisco, Calif.

NATURE OF CHARGE: Adulteration, Section 402 (c), the article contained D&C Red No. 18, a coal-tar color that has not been listed for use in foods in accordance with regulations, and was other than one from a batch that has been certified.

DISPOSITION: August 21, 1950. Default decrees of condemnation and destruction.

16547. Adulteration and misbranding of ground chili peppers. U. S. v. 82 Barrels, etc. (F. D. C. No. 29326. Sample No. 73833–K.)

LIBEL FILED: May 19, 1950, Southern District of New York.

ALLEGED SHIPMENT: On or about February 20, 1950, by Gonzales & Blanco, Los Angeles, Calif.

PRODUCT: 132 250-pound barrels of ground chili peppers at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (b) (3), artificial color had been added to the article to conceal inferiority or damage; and, Section 402 (b) (4), artificial coloring had been added to the article and mixed and packed with it so as to make it appear better and of greater value than it was.

Misbranding, Section 403 (k), the product contained artificial coloring and failed to bear labeling stating that fact.

DISPOSITION: August 7, 1950. The shipper having appeared as claimant and consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be converted into stock feed, under the supervision of the Food and Drug Administration.

16548. Adulteration of canned barbecue sauce. U. S. v. 20 Cases * * *. (F. D. C. No. 29295. Sample No. 77511–K.)

LIBEL FILED: July 5, 1950, Eastern District of Illinois.

ALLEGED SHIPMENT: On or about April 5, 1950, from Ladoga, Ind.

PRODUCT: 20 cases, each containing 48 cans, of barbecue sauce at Mound City, Ill.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance since it was undergoing chemical decomposition. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: August 30, 1950. Default decree of condemnation and destruction.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE

16549. Adulteration and misbranding of Neo-Mineral. U. S. v. 16 Bottles * * *. (F. D. C. No. 29197. Sample No. 71313–K.)

LIBEL FILED: April 27, 1950, Southern District of California.

ALLEGED SHIPMENT: On or about November 11, 14, and 16, 1949, by the Trojanol Products Co., from Detroit, Mich.

PRODUCT: 16 bottles of Neo-Mineral at Riverside, Calif.

LABEL, IN PART: "Improved Formula Neo-Mineral—Two teaspoonfuls of this mineral extract will supply twice the minimum daily adult iron (FE) requirement. Minimum daily adult requirement 10 mgm—3 fluid ounces net."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, iron, had been in part omitted.

Misbranding, Section 403 (a), the label statement "Two teaspoonfuls of this mineral extract will supply twice the minimum daily adult iron (FE) requirement" was false and misleading. (Two teaspoonfuls of the product would supply less than twice the minimum daily adult requirement for iron, i. e., 20 mg.)

DISPOSITION: May 23, 1950. Default decree of condemnation and destruction.

16550. Adulteration and misbranding of Ziratone No. 2. U. S. v. 36 Bottles * * *. (F. D. C. No. 29502. Sample No. 69487–K.)

LIBEL FILED: July 25, 1950, Western District of New York.

ALLEGED SHIPMENT: On or about May 3, 1950, from Philadelphia, Pa.

PRODUCT: 36 1-gallon bottles of Ziratone No. 2 at Buffalo, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, vitamin B_1, had been in whole or in part omitted or abstracted from the article.

Misbranding, Section 403 (a), the label statement "Each Fluid Ounce Contains: * * * Vitamin B_1 6 Mgms. (600% Of The Minimum Daily Adult Requirements)" was false and misleading as applied to an article which contained less than this amount of vitamin B_1.

The article was adulterated and misbranded while held for sale after shipment in interstate commerce.

DISPOSITION: September 5, 1950. Default decree of condemnation and destruction.

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[1] (16501) Permanent injunction issued.
[2] (16505) Preliminary injunction issued.

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[1] (16501) Permanent injunction issued.
[2] (16505) Preliminary injunction issued.
[3] (16538) Contains opinion of the court.

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[2] (16505) Preliminary injunction issued.
[3] (16538) Contains opinion of the court.

U. S. GOVERNMENT PRINTING OFFICE: 1951

FEDERAL SECURITY AGENCY

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

16551–16600

FOODS

The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Federal Security Agency, and include, where indicated, the results of investigations of the Agency, prior to the institution of the proceedings. Published by direction of the Federal Security Administrator.

PAUL B. DUNBAR, *Commissioner of Food and Drugs.*

WASHINGTON, D. C., *January 16, 1951.*

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CEREALS AND CEREAL PRODUCTS

BAKERY PRODUCTS

16551. Adulteration of bakery products. U. S. v. Wm. Rydberg Baking Co., a corporation, and Walter C. Rydberg. Pleas of guilty. Corporation fined $200 and individual defendant $50. (F. D. C. No. 29170. Sample Nos. 11800–K, 57261–K, 63002–K, 63372–K, 63448–K.)

INFORMATION FILED: October 3, 1950, District of Massachusetts, against the Wm. Rydberg Baking Co., a corporation, Cambridge, Mass., and Walter C. Rydberg, treasurer of the corporation.

ALLEGED SHIPMENT: Between the approximate dates of July 15, 1949, and January 13, 1950, from the State of Massachusetts into the States of Connecticut and Maine.

LABEL, IN PART: "Rydco Quality Zwiebacks Rusks Cinnamon [or "Plain"] Made By Wm. Rydberg Baking Co. East Cambridge Mass." and "Vort Rydberg's Swedish Limpa (Rye)."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in part of filthy substances by reason of the presence of insects, insect fragments, and rodent hair fragments; and, Section 402 (a) (4), they had been prepared under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: October 17, 1950. Pleas of guilty having been entered, the court fined the corporation $200 and the individual defendant $50.

16552. Adulteration of vanilla wafers. U. S. v. Oakley H. Callicott (Wade Cookie Co.). Plea of nolo contendere. Fine, $100. (F. D. C. No. 29593. Sample Nos. 76788–K, 76789–K.)

INFORMATION FILED: June 28, 1950, Middle District of Tennessee, against Oakley H. Callicott, trading as the Wade Cookie Co., Nashville, Tenn.

ALLEGED SHIPMENT: Between the approximate dates of March 21 and 28, 1950, from the State of Tennessee into the State of Missouri.

LABEL, IN PART: "Wade's Cookie Co., Nashville, Tenn. Vanilla Wade's Wafers 10¢."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insect fragments and rodent hair fragments; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: October 18, 1950. A plea of nolo contendere having been entered, the court fined the defendant $100.

16553. Adulteration of cookies. U. S. v. 10 Cartons * * *. (F. D. C. No. 29361. Sample No. 79652–K.)

LIBEL FILED: June 12, 1950, Eastern District of New York.

ALLEGED SHIPMENT: On or about May 22, 1950, by the Imperial Brand Food Products, from Boston, Mass.

PRODUCT: 10 cartons, each containing 18 boxes, of cookies at Long Island City, N. Y.

LABEL, IN PART: (Box) "Victory Assortment Delicious Dainty Cookies 5 Dozen Individual Service Packages."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta, rodent hairs, and insects; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: July 27, 1950. Default decree of condemnation and destruction.

16554. Adulteration and misbranding of cheese puffs. U. S. v. 25 Cases * * *. (F. D. C. No. 28677. Sample No. 35225–K.)

LIBEL FILED: January 12, 1950, District of Hawaii.

ALLEGED SHIPMENT: On or about December 9, 1949, by Theo H. Davies & Co., Ltd., from San Francisco, Calif.

PRODUCT: 25 cases, each containing 24 cans, of cheese puffs at Honolulu, T. H.

LABEL, IN PART: (Cans) "Betty Lou Cheese Puffs Net Wt. 4 Oz. or over."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), valuable constituents, cheese and eggs, had been omitted from the article; and, Section 402 (b) (4), artificial yellow color had been added to, and mixed and packed with, the article so as to make the article appear better or of greater value than it was.

Misbranding, Section 403 (a), the name "Cheese Puffs" was false and misleading as applied to an article containing no cheese or eggs.

DISPOSITION: October 18, 1950. The owner of the product having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be destroyed.

FLOUR

16555. Adulteration of flour. U. S. v. Preston Milling Industries, a partnership, and Fred H. Preston, Sr. Pleas of nolo contendere. Partnership fined $100, plus costs; individual defendant fined $50. (F. D. C. No. 29178. Sample Nos. 55360–K, 55361–K.)

INFORMATION FILED: June 7, 1950, District of Nebraska, against Preston Milling Industries, Fairbury, Nebr., and Fred H. Preston, Sr.

ALLEGED SHIPMENT: On or about October 15, 1949, from the State of Nebraska into the State of Kansas.

LABEL, IN PART: "Enriched For All Baking * * * Sur-Good Flour * * * Manufactured By Preston Milling Industries – Fairbury, Nebr."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insect parts and rodent hair; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: October 12, 1950. Pleas of nolo contendere having been entered, the court fined the partnership $100, plus costs, and the individual defendant $50.

16556. Adulteration of flour. U. S. v. 402 Bags * * *. (F. D. C. No. 29391. Sample Nos. 75151–K to 75155–K, incl.)

LIBEL FILED: On or about July 14, 1950, Eastern District of Louisiana.

ALLEGED SHIPMENT: On or about April 1, 1949, from Omaha, Nebr.

PRODUCT: 120 50-pound bags, 188 25-pound bags, and 94 100-pound bags of flour at Hammond, La.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: August 23, 1950. Default decree of condemnation and destruction.

16557. Adulteration of flour. U. S. v. 131 Bags * * *. (F. D. C. No. 29658 Sample Nos. 47681–K, 47682–K.)

LIBEL FILED: July 20, 1950, Eastern District of Virginia.

ALLEGED SHIPMENT: On or about June 12 and 20, 1950, from Buffalo, N. Y.

PRODUCT: 131 100-pound bags of flour at Norfolk, Va., in possession of Foote Bros. & Co.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: August 3, 1950. Foote Bros. & Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency. 67 100-pound bags of flour were found unfit and were segregated and denatured for use as animal feed.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS*

16558. Adulteration of soya grits. U. S. v. 76 Sacks, etc. (F. D. C. No. 28896. Sample Nos. 34579–K to 34581–K, incl.)

LIBEL FILED: March 15, 1950, Northern District of California.

ALLEGED SHIPMENT: On or about November 18, 1948, from Chicago, Ill.

PRODUCT: 206 100-pound sacks of soya grits at San Francisco, Calif.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of larvae, insect excreta, and insect webbing. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: April 10, 1950. William V. Byrne, trading as the Monarch Flour Co., San Francisco, Calif., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency. The product was disposed of as animal feed.

16559. Adulteration of brewers grits. U. S. v. 25,000 Pounds * * *. (F. D. C. No. 29586. Sample No. 84741–K.)

LIBEL FILED: September 13, 1950, Southern District of Ohio.

ALLEGED SHIPMENT: On or about August 14, 1950, from Milwaukee, Wis.

PRODUCT: 25,000 pounds of brewers grits at Cincinnati, Ohio.

*See also No. 16592.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects, insect fragments, and rodent hair fragments. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: September 18, 1950. The Schoenling Brewing Co., Cincinnati, Ohio, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond for conversion into stock feed, under the supervision of the Federal Security Agency.

16560. Adulteration of brewers rice. U. S. v. 100,000 Pounds * * * (and 1 other seizure action). (F. D. C. Nos. 29300, 29533. Sample Nos. 75960–K, 85441–K.)

LIBELS FILED: July 14 and August 18, 1950, District of Minnesota.

ALLEGED SHIPMENT: On or about June 19 and July 25, 1950, by the Rice Growers Assn. of California, from Sacramento, Calif.

PRODUCT: 200,000 pounds of brewers rice at St. Paul, Minn.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects and insect parts; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: August 2 and 22, 1950. The Rice Growers Assn. of California, claimant, having consented to the entry of decrees, judgments of condemnation were entered and the court ordered that the product be released under bond to be denatured for use as animal feed, under the supervision of the Federal Security Agency.

16561. Adulteration of brewers rice. U. S. v. 300 Bags * * *. (F. D. C. No. 29521. Sample No. 69371–K.)

LIBEL FILED: On or about August 10, 1950, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about June 13, 1950, by the River Brand Rice Mills, Inc., from Houston, Tex.

PRODUCT: 300 100-pound bags of brewers rice at Latrobe, Pa.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects, insect fragments, and rodent hair fragments; and, Section 402 (a) (4), the article had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: August 28, 1950. Default decree of condemnation and destruction.

16562. Adulteration of cracked rice. U. S. v. 82 Bags * * *. (F. D. C. No. 29390. Sample No. 73021–K.)

LIBEL FILED: July 11, 1950, Southern District of New York.

ALLEGED SHIPMENT: On or about November 1, 1948, from Willard, Ohio.

PRODUCT: 82 100-pound bags of cracked rice at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects and insect excreta. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: August 17, 1950. Connell Rice & Commission Co., Inc., New York, N. Y., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the purpose of brushing, blowing, and cleaning, under the supervision of the Federal Security Agency. The cleaning operations were completed on or about October 24, 1950, and of the 8,200 pounds of rice which were seized, 7,960 pounds were released as fit for human consumption.

16563. Adulteration of rice. U. S. v. 59 Bags * * *. (F. D. C. No. 29510. Sample No. 35104–K.)

LIBEL FILED: August 3, 1950, Northern District of California.

ALLEGED SHIPMENT: On or about July 1, 1950, from the Orient to San Francisco, Calif., on the S. S. *President Wilson*, as part of the ship stores.

PRODUCT: 59 100-pound bags of rice at San Francisco, Calif.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of live and dead insects and insect excreta.

DISPOSITION: August 29, 1950. The American President Lines, Ltd., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the purpose of salvaging such portion as was found to be fit for human consumption, under the supervision of the Federal Security Agency. The original lot under seizure, consisting of a total of 5,950 pounds, was commingled with other material, so that the cleaning company received a total of 10,850 pounds. Of this amount, 10,586 pounds were found to be good, and the remainder was destroyed.

16564. Adulteration of wheat. U. S. v. Sully County Cooperative Assn. Plea of guilty. Fine, $25. (F. D. C. No. 29192. Sample No. 64391–K.)

INFORMATION FILED: July 12, 1950, District of South Dakota, against the Sully County Cooperative Assn., a corporation, Onida, S. Dak.

ALLEGED SHIPMENT: On or about February 9, 1950, from the State of South Dakota into the State of Minnesota.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a decomposed substance by reason of the presence of musty wheat.

DISPOSITION: October 3, 1950. A plea of guilty having been entered, the court fined the corporation $25.

16565. Adulteration of cookie mix. 273 Cases, etc. (F. D. C. No. 29501. Sample Nos. 69721–K to 69726–K, incl.)

LIBEL FILED: July 25, 1950, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about July 26, 1949, from New York, N. Y.

PRODUCT: 841 cases, each containing 24 12-ounce cartons, of cookie mix at Pittsburgh, Pa.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: September 6, 1950. Default decree of condemnation and destruction.

DAIRY PRODUCTS

BUTTER

The following cases report actions involving butter that consisted in whole or in part of filthy or decomposed substances, **Nos. 16566 and 16567**; that was below the legal standard for milk fat content, **Nos. 16568 to 16574**; and that was short of the declared weight, **No. 16575.**

16566. Adulteration of butter. U. S. v. 13,500 Pounds. * * *. (F. D. C. No. 28082. Sample No. 41864–K.)

LIBEL FILED: August 29, 1949, Eastern District of Michigan.

ALLEGED SHIPMENT: On or about August 11, 1949, by Sherman White & Co., from Fort Wayne, Ind.

PRODUCT: 13,500 pounds of butter at Detroit, Mich.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed and filthy product. Examination disclosed that the product contained insect fragments and rodent hairs, and that it was made from decomposed cream.

DISPOSITION: June 2, 1950. Sherman White & Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be converted into inedible oil and grease, under the supervision of the Food and Drug Administration.

16567. Adulteration of butter. U. S. v. 39 Cartons (2,496 pounds) * * *. (F. D. C. No. 29763. Sample No. 73853–K.)

LIBEL FILED: July 21, 1950, Southern District of New York.

ALLEGED SHIPMENT: On or about July 7, 1950, by the Golden Valley Creamery, from Park River, N. Dak.

PRODUCT: 39 64-pound cartons of butter at New York, N. Y.

LABEL, IN PART: "Butter Distributed by Hunter, Walton & Co. New York."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy, putrid, or decomposed substance. (Analysis showed that the article contained insect parts, manure, and rodent hairs.)

Further adulteration, Section 402 (a) (4), the article had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: August 9, 1950. Default decree of condemnation. The court ordered that the product be sold and denatured for purposes of fat salvage.

16568. Adulteration of butter. U. S. v. Darrell A. Parsons (Parsons Creamery & Locker Co.). Plea of guilty. Fine, $25. (F. D. C. No. 29623. Sample No. 85401–K.)

INFORMATION FILED: October 3, 1950, District of South Dakota, against Darrell A. Parsons, trading as the Parsons Creamery & Locker Co., Woonsocket, S. Dak.

ALLEGED SHIPMENT: On or about June 21, 1950, from the State of South Dakota into the State of New York.

LABEL, IN PART: "Creamery Butter Manufactured by Parsons Creamery & Locker Co. Woonsocket, S. D."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, milk fat, had been in part omitted from the product; and, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: October 23, 1950. A plea of guilty having been entered, the court fined the defendant $25.

16569. Adulteration of butter. U. S. v. 44 Cartons (2,816 pounds) * * *. (F. D. C. No. 29767. Sample No. 85401–K.)

LIBEL FILED: June 29, 1950, Southern District of New York.

ALLEGED SHIPMENT: On or about June 21, 1950, by the Parsons Creamery & Locker Co., from Woonsocket, S. Dak.

PRODUCT: 44 64-pound cartons of butter at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: July 12, 1950. Hunter, Walton & Co., New York, N. Y., having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond for reworking, under the supervision of the Food and Drug Administration.

16570. Adulteration of butter. U. S. v. 54 Boxes (3,456 pounds) * * *. (F. D. C. No. 29765. Sample No. 75826–K.)

LIBEL FILED: June 30, 1950, Northern District of Illinois.

ALLEGED SHIPMENT: On or about June 23, 1950, by Equity Union Creameries, Inc., from Aberdeen, S. Dak.

PRODUCT: 54 64-pound boxes of butter at Chicago, Ill.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: July 18, 1950. The Marketing Assn. of America, Chicago, Ill., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for rechurning, under the supervision of the Federal Security Agency.

16571. Adulteration of butter. U. S. v. 11 Boxes (726 pounds) * * *. (F. D. C. No. 29758. Sample No. 67745–K.)

LIBEL FILED: August 8, 1950, District of Idaho.

ALLEGED SHIPMENT: On or about June 28, 1950, by the Farmers Cooperative Dairy Assn., from Hudson, Wyo.

PRODUCT: 11 66-pound boxes of butter at Pocatello, Idaho.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: August 17, 1950. The Farmers Cooperative Dairy Assn., claimant, having consented to the entry of a decree, judgment was entered ordering that the product be released under bond for reworking.

16572. Adulteration of butter. U. S. v. 10 Boxes (640 pounds) * * *. (F. D. C. No. 29413. Sample No. 76123–K.)

LIBEL FILED: April 21, 1950, District of New Jersey.

ALLEGED SHIPMENT: On or about April 14, 1950, by the Littlefork Co-op Creamery Assn., Inc., from Littlefork, Minn.

PRODUCT: 10 64-pound boxes of butter at Jersey City, N. J.

LABEL, IN PART: "June Dairy Products Co. Inc. Distributors Jersey City N. J."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: June 12, 1950. The Littlefork Co-op Creamery Assn., Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reworking, under the supervision of the Federal Security Agency.

16573. Adulteration of butter. U. S. v. 4 Boxes (264 pounds) * * *. (F. D. C. No. 29412. Sample No. 75932–K.)

LIBEL FILED: May 10, 1950, District of New Jersey.

ALLEGED SHIPMENT: On or about April 28, 1950, by the Manchester Coop. Creamery Co., from Manchester, Iowa.

PRODUCT: 4 boxes, each containing 66 pounds, of butter at Newark, N. J.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: July 12, 1950. The Manchester Coop. Creamery Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reworking, under the supervision of the Federal Security Agency.

16574. Adulteration of butter. U. S. v. 20 Cases * * *. (F. D. C. No. 29414. Sample No. 78627–K.)

LIBEL FILED: May 3, 1950, District of Montana.

ALLEGED SHIPMENT: On or about April 23, 1950, by the Rocky Mountain Creamery, from Salmon, Idaho.

PRODUCT: 20 cases, each containing 50 1-pound cartons, of butter at Butte, Mont.

LABEL, IN PART: "Meadow Gold Butter Distributed by Beatrice Foods Co. Chicago, Illinois."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: August 7, 1950. The Rocky Mountain Creamery, claimant, having admitted the allegations of the libel, judgment was entered and the court ordered that the product be released under bond for reworking, under the supervision of the Food and Drug Administration.

16575. Misbranding of butter. U. S. v. 9 Cartons (288 pounds) * * *. (F. D. C. No. 29305. Sample No. 63344–K.)

LIBEL FILED: March 29, 1950, District of Massachusetts.

ALLEGED SHIPMENT: On or about March 9, 1950, by the Paul A. Schulze Co., from St. Louis, Mo.

PRODUCT: 9 32-pound cartons of butter at Springfield, Mass.

LABEL, IN PART: (Wrapper) "1 Lb. Net Clover Springs Brand Butter."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label statement "1 Lb. Net" was false and misleading; and, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents. (The butter was short of the declared weight.)

DISPOSITION: August 22, 1950. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution.

CHEESE

16576. Adulteration of grated cheese. U. S. v. 4 Cases * * * (and 2 other seizure actions). (F. D. C. Nos. 29325, 29350, 29363. Sample Nos. 79324–K, 79436–K, 79762–K.)

LIBELS FILED: May 17 and June 8 and 20, 1950, District of Massachusetts and District of New Hampshire.

ALLEGED SHIPMENT: On or about March 1 and May 11 and 18, 1950, by N. J. Nassikas, Inc., from Barton, Vt.

PRODUCT: Grated cheese. 4 cases, each containing 12 jars, at Worcester, Mass., and 24 cartons, each containing 12 jars, at Manchester, N. H.

LABEL, IN PART: (Jar) "Nassikas Grated Cheese * * * Contents – ½ Lb."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects, insect fragments, and rodent hairs; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: May 26 and August 15, 1950. Default decrees of condemnation and destruction.

16577. Adulteration of grated cheese. U. S. v. 48 Jars * * *. (F. D. C. No. 29357. Sample No. 79326–K.)

LIBEL FILED: On or about June 13, 1950, District of New Hampshire.

ALLEGED SHIPMENT: On or about May 18, 1950, from Chelsea, Mass. This was a return shipment.

PRODUCT: 48 jars of grated cheese at Manchester, N. H.

LABEL, IN PART: (Jar) "Nassikas Grated Cheese * * * Contents – ½ Lb."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects, insect fragments, and rodent hair fragments; and, Section 402 (a) (4), the product had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: August 15, 1950. Default decree of condemnation and destruction.

MISCELLANEOUS DAIRY PRODUCTS

16578. Adulteration and misbranding of ice cream and ice cream bars. U. S. v. Rose Lawn Dairy, Thomas Conrady, and Henry O. Williams. Pleas of nolo contendere. Defendants jointly fined $100. (F. D. C. No. 29177. Sample Nos. 61577–K, 70936–K to 70938–K, incl.)

INFORMATION FILED: August 23, 1950, Eastern District of Oklahoma, against the Rose Lawn Dairy, a partnership, Muskogee, Okla., and Thomas Conrady and Henry O. Williams, partners.

ALLEGED SHIPMENT: On or about December 2, 1949, and January 30, 1950, from the State of Oklahoma into the State of Arkansas.

LABEL, IN PART: "Rose Lawn Strawberry [or "Vanilla" or "Chocolate"] Ice Cream Rose Lawn Dairy, Muskogee, Oklahoma" and "Honey Boy Bar Chocolate Coated Ice Cream Bar Made By Walker Creamery Company Miami, Oklahoma."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, milk fat, had been in part omitted; Section 402 (b) (2), a product containing vegetable fat had been substituted for ice cream; and, Section 402 (b) (4), vegetable fat had been added to, and mixed and packed with, the product so as to reduce its quality.

Misbranding, Section 403 (a), the label designations "Ice Cream" and "Ice Cream Bar" were false and misleading since the products contained vegetable fat.

DISPOSITION: September 7, 1950. Pleas of nolo contendere having been entered the court imposed a joint fine of $100 against the defendants.

16579. Adulteration of dried skim milk. U. S. v. 17,025 Pounds * * *. (F. D. C. No. 29218. Sample Nos. 70828–K, 70829–K.)

LIBEL FILED: May 11, 1950, District of Kansas.

ALLEGED SHIPMENT: On or about March 24 and 31, 1950, by the Ashley Milk Co., from Linn, Mo.

PRODUCT: 17,025 pounds (78 barrels) of dried skim milk at Kansas City, Kans.

LABEL, IN PART: "Human Food—Dried Skim Milk."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article was unfit for food by reason of its obnoxious odor.

DISPOSITION: August 10, 1950. The Ashley Milk Co., St. Louis, Mo., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for use in the manufacture of poultry or stock feed, under the supervision of the Federal Security Agency.

EGGS

16580. Adulteration of dehydrated eggs. U. S. v. 9 Barrels * * *. (F. D. C. No. 29349. Sample No. 73742–K.)

LIBEL FILED: June 7, 1950, Southern District of New York.

ALLEGED SHIPMENT: On or about December 31, 1948, from Terre Haute, Ind.

PRODUCT: 9 barrels of dehydrated eggs at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: August 25, 1950. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for use as stock feed.

16581. Adulteration and misbranding of frozen egg yolks. U. S. v. 15 cans * * *. (F. D. C. No. 29497. Sample No. 71222–K.)

LIBEL FILED: July 21, 1950, Southern District of California.

ALLEGED SHIPMENT: On or about March 27, 1950, by the Dickey Davis Produce Co., from Phoenix, Ariz.

PRODUCT: 15 30-pound cans of frozen egg yolks at Los Angeles, Calif.

LABEL, IN PART: "Packed by Food Processors, Inc., Norfolk, Nebraska Egg Yolks."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product the egg component of which was deficient in total egg solids had been substituted for a product the egg component of which should contain not less than 43 percent total egg solids.

Misbranding, Section 403 (a), the label designation "Egg Yolks" was false and misleading as applied to the product, the egg component of which contained less than 43 percent total egg solids.

DISPOSITION: August 17, 1950. Default decree of condemnation. The court ordered that the product be delivered to a charitable organization.

FEEDS AND GRAINS

16582. Misbranding of Super Culture all purpose feed and Special dairy feed. U. S. v. William Hite (Super Culture Sales Co.); (2 informations). Plea of guilty. Imposition of sentence suspended and defendant placed on probation for 2 years. (F. D. C. Nos. 25567, 25575. Sample Nos. 24397–K to 24399–K, incl.)

INFORMATIONS FILED: November 24, 1948, and March 14, 1949, District of Minnesota, against William Hite of Mankato, Minn., trading as the Super Culture Sales Co., at Sioux City, Iowa.

INTERSTATE SHIPMENT: On or about December 9, 1946, and July 2 and September 22, 1947, from the State of Iowa into the State of Minnesota.

ALLEGED VIOLATIONS: (First information). Between the approximate dates of December 15, 1946, and December 12, 1947, while the Super Culture all purpose feed was being held for sale after shipment in interstate commerce, the defendant, at Lake Crystal, Minn., caused certain circulars entitled "Super Culture Feed" and "Guarantee and Refund Contract" to accompany the article, which acts resulted in the article being misbranded.

(Second information). On or about September 23, 1947, the defendant received a quantity of Special dairy feed in interstate commerce at Mankato, Minn., from Sioux City, Iowa, and proffered and delivered such article for pay or otherwise.

PRODUCT: Analyses disclosed that the Super Culture all purpose feed consisted of a reddish-colored mixture containing protein (14.90% and 16.51%, respectively, in 2 samples), crude fiber and crude fat, together with salt, soda, iron oxide, and cereal bran; and that the Special dairy feed consisted essentially of a reddish-colored mixture containing 18.60% sulfanilamide and 10% protein, and crude fiber and crude fat, together with salt, soda, iron oxide, cereal bran, and anise.

NATURE OF CHARGE: Super Culture all purpose feed. Misbranding, Section 403 (a), certain statements in the circulars accompanying the article were false and misleading. These statements represented and suggested that the article would increase the food value of grains; that it would be efficacious in the cure, mitigation, and treatment of flu, spleen trouble, rickets, abortion, jaundice, worms, and necro in hogs; that the mixing of the article with grain would give

one the best and cheapest feed on earth; that the article would get hogs in a healthy condition; that it would prevent bowel trouble in chicks and increase the egg production of hens; that the article, when used in conjunction with a product known as "Special Dairy Culture" or "Special Dairy Feed," would be efficacious in the cure, mitigation, treatment, and prevention of mastitis; that it would eliminate and correct 80 percent of the dietary troubles and diseases which produce unthriftiness in hogs; and that it would be efficacious in the prevention of white diarrhea, necro, enlargement of the spleen, flu, and worms in brood sows, pigs, and shoats. The article would not be efficacious for the purposes so represented and suggested.

Special dairy feed. Misbranding, Section 403 (a), certain statements on the bags containing the article and upon tags attached to the bags were false and misleading. The statements represented and suggested that the article would be efficacious in the treatment of mastitis, whereas it would not be efficacious for such purpose.

The articles were alleged also to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 3198.

DISPOSITION: June 7, 1950. A plea of guilty having been entered, the court suspended the imposition of sentence as to each information and placed the defendant on probation for two years.

16583. Adulteration and misbranding of fish meal. U. S. v. 51 Bags * * *. F. D. C. No. 29482. Sample No. 70149–K.)

LIBEL FILED: July 6, 1950, Southern District of Iowa.

ALLEGED SHIPMENT: On or about March 23, 1950, by the Herring Sales Co., from Roseburg, Oreg.

PRODUCT: 51 bags of fish meal at Malvern, Iowa.

LABEL, IN PART: "Fish Meal 60% Protein * * * Not Less Than 5.00% Fibre * * * 100 Lbs. Net Weight."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), soybean meal, cottonseed meal, and blood meal were substituted in part for fish meal.

Misbranding, Section 403 (a), the label statements "Fish Meal 60% Protein * * * Not Less Than 5.00% Fibre" were false and misleading as applied to an article which consisted of soybean meal, cottonseed meal, and blood meal in addition to fish meal, and which contained less protein and more fiber than declared; and, Section 403 (i) (2), the product was fabricated from two or more ingredients, and it failed to bear a label containing the common or usual name of each such ingredient.

DISPOSITION: October 3, 1950. Default decree of condemnation and destruction.

FISH AND SHELLFISH

16584. Adulteration of frozen ocean perch fillets. U. S. 1,571 Cartons * * *. (F. D. C. No. 28967. Sample Nos. 60077–K to 60079–K, incl.)

LIBEL FILED: April 10, 1950, Northern District of Illinois.

ALLEGED SHIPMENT: On or about April 3, 1950, by Trident Fisheries, Inc., from Gloucester, Mass.

PRODUCT: 1,571 10-pound cartons of frozen ocean perch fillets at Chicago, Ill.

LABEL, IN PART: "Trident Brand Freshly Frozen Ocean Perch Fillets."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of parasites.

DISPOSITION: April 27, 1950. Trident Fisheries, Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency. The product was recandled, with the result that 201 cartons were found unfit and were destroyed on or about August 1, 1950.

16585. Adulteration of frozen rosefish fillets. U. S. v. 15 Cartons * * *. (F. D. C. No. 29493. Sample No. 69346–K.)

LIBEL FILED: July 12, 1950, Northern District of Ohio.

ALLEGED SHIPMENT: On or about June 30, 1950, by the Blue Sea Fish Co., from Boston, Mass.

PRODUCT: 15 cartons, each containing 5 packages, of frozen rosefish fillets at Youngstown, Ohio.

LABEL, IN PART: (package) "Ten Pounds Net Weight Schooner Brand Fillets Frozen Rose Fish Fillets."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of parasites.

DISPOSITION: August 30, 1950. Default decree of condemnation and destruction.

16586. Adulteration of frozen shrimp. U. S. v. 89 Boxes * * *. (F. D. C. No. 29395. Sample Nos. 74100–K, 74401–K.)

LIBEL FILED: July 17, 1950, Southern District of New York.

ALLEGED SHIPMENT: On or about May 1, 1950, by Alfred M. Collins, from Panama.

PRODUCT: 89 boxes, each containing 10 5-pound cartons, of frozen shrimp at New York, N. Y.

LABEL, IN PART: "Jumbo Shrimp * * * Produced and Packaged in the Republic of Panama."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed shrimp.

DISPOSITION: August 2, 1950. The Noble Sales Co., New York, N. Y., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for salvage, under the supervision of the Federal Security Agency. Salvage operations resulted in the rejection of 450 pounds of shrimp as unfit. The remainder of the shrimp was released as fit for human consumption.

16587. Adulteration and misbranding of frozen shrimp. U. S. v. 39 Cases * * *. (F. D. C. No. 29499. Sample No. 88181–K.)

LIBEL FILED: July 24, 1950, District of Colorado.

ALLEGED SHIPMENT: On or about July 14, 1950, by L. A. Dunagan Co., from Los Angeles, Calif.

PRODUCT: 39 cases, each containing 10 5-pound boxes, of frozen shrimp at Denver, Colo.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed shrimp.

Misbranding, Sections 403 (e) (1) and (2), the product failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the contents; and, Section 403 (i) (1), the label failed to bear the common or usual name of the product.

DISPOSITION: August 7, 1950. L. A. Dunagan Co., Glendale, Calif., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the purpose of converting the product into fish bait, under the supervision of the Federal Security Agency.

FRUITS AND VEGETABLES*

DRIED FRUIT

16588. Adulteration of dried apricots and dried pears. U. S. v. 99 Cases, etc. (F. D. C. No. 29236. Sample Nos. 72260–K, 84322–K.)

LIBEL FILED: May 18, 1950, Northern District of Ohio.

ALLEGED SHIPMENT: On or about March 15, 1950, by Hunt Foods, Inc., from Campbell, Calif.

PRODUCT: 99 cases, each containing 24 1-pound bags, of dried apricots, and 99 cases, each containing 24 1-pound bags, of dried pears at Cleveland, Ohio.

LABEL IN PART: (Bags) "Hunts California Extra Selected Dried Apricots [or "Pears"] * * * Packed by Guggenhime & Co. Division of Hunt Foods, Inc., San Francisco California."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of insects, insect fragments, rodent hairs, and, in addition, (apricots only) rodent excreta; and, Section 402 (a) (4), the products had been prepared under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: October 19, 1950. Default decree of condemnation and destruction.

16589. Adulteration of prunes. U. S. v. 168 Cartons * * *. (F. D. C. No. 29498. Sample No. 35102–K.)

LIBEL FILED: August 3, 1950, Northern District of California.

ALLEGED SHIPMENT: On or about June 12, 1950, from Boston, Mass.

PRODUCT: 168 cartons of prunes at San Francisco, Calif.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: October 17, 1950. Default decree of condemnation and destruction.

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*See also No. 16598.

FROZEN FRUIT

16590. Adulteration and misbranding of frozen cherries. U. S. v. 218 Cans * * *. (F. D. C. No. 27724. Sample No. 7755–K.)

LIBEL FILED: August 26, 1949, Western District of New York.

ALLEGED SHIPMENT: On or about August 1, 1949, by the Sunshine Packing Corp. of Pennsylvania, from North East, Pa.

PRODUCT: 218 30-pound cans of frozen cherries at Falconer, N. Y. Examination showed that the product contained pits in excess of the number which can be regarded as unavoidable. Under good commercial practice, pits can be kept down to one pit or less per 20 ounces.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), partially pitted cherries had been substituted in whole or in part for pitted cherries, which the article was represented to be.

Misbranding, Section 403 (a), the label statement "R. S. P. Montmorency Cherries" was false and misleading as applied to partially pitted cherries.

DISPOSITION: September 26, 1949. The Sunshine Packing Corp. of Pennsylvania, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reprocessing or relabeling, under the supervision of the Federal Security Agency. The product subsequently was relabeled on May 8, 1950.

16591. Adulteration of frozen strawberries. U. S. v. 21 Cartons * * *. (F. D. C. No. 27836. Sample No. 57065–K.)

LIBEL FILED: September 12, 1949, Southern District of New York.

ALLEGED SHIPMENT: On or about August 13, 1949, by the Sunshine Packing Corp. of Pennsylvania, from North East, Pa.

PRODUCT: 21 cartons, each containing 4 tins, of frozen strawberries at New York, N. Y.

LABEL IN PART: (Tins) "10 Lbs. Net Wt. Sliced Strawberries."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: April 12, 1950. The Sunshine Packing Corp. of Pennsylvania, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond for the purpose of segregating the good portion from the bad, under the supervision of the Federal Security Agency. Salvage was unsuccessful, and the product was destroyed.

VEGETABLES

16592. Adulteration of beans and popcorn. U. S. v. 7 Bags * * * (and 1 other seizure action). (F. D. C. Nos. 28909, 28910. Sample Nos. 78305–K, 78306–K.)

LIBEL FILED: On or about March 29, 1950, Western District of Washington.

ALLEGED SHIPMENT: On or about October 26, 1949, and January 18, 1950, from Nampa, Idaho, and San Francisco, Calif.

PRODUCT: 7 100-pound bags of beans and 3 100-pound bags of popcorn at Seattle, Wash., in possession of the J. C. Wright Sales Co.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of rodent urine; and, Section 402 (a) (4), they had been held under insanitary conditions whereby they may have become contaminated with filth. The products were adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: September 11, 1950. Default decrees of condemnation. The court ordered that the products be delivered to a Federal institution, for use as animal feed.

16593. Adulteration of canned corn. U. S. v. 36 Cases * * *. F. D. C. No. 29302. Sample No. 75157–K.)

LIBEL FILED: On or about August 1, 1950, Eastern District of Louisiana.

ALLEGED SHIPMENT: On or about April 5, 1950, by W. A. Long & Sons, from Monticello, Iowa.

PRODUCT: 36 cases, each containing 24 1-pound, 4-ounce cans, of sweet corn at Baton Rouge, La.

LABEL, IN PART: "Our Value Brand Cream Style White Sweet Corn."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product was unfit for food by reason of excess salt rendering it unpalatable.

DISPOSITION: August 30, 1950. Default decree of condemnation and destruction.

16594. Misbranding of canned mushrooms. U. S. v. 320 Cases * * *. (F. D. C. No. 29256. Sample No. 35042–K.)

LIBEL FILED: June 2, 1950, Northern District of California.

ALLEGED SHIPMENT: Between the dates of March 17, 1949, and April 23, 1950, by the Delaware Mushroom Cooperative Assn., from Wilmington, Del.

PRODUCT: 320 cases, each containing 24 8-ounce cans, of mushrooms at San Francisco, Calif.

LABEL, IN PART: (Can) "First State Fancy Buttons Mushrooms."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label designation "Fancy Buttons Mushrooms" was false and misleading as applied to an article that was not fancy because of excessive blemished units.

DISPOSITION: August 18, 1950. The Delaware Mushroom Cooperative Assn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling, under the supervision of the Federal Security Agency.

MEAT AND POULTRY

16595. Adulteration of frozen rabbits. U. S. v. 294 Bushel Baskets * * *. (F. D. C. No. 28741. Sample No. 73104–K.)

LIBEL FILED: March 2, 1950, Southern District of New York.

ALLEGED SHIPMENT: On or about January 12, 1950, by the Bismarck Hide & Fur Co., from Bismarck, N. Dak.

PRODUCT: 294 bushel baskets, each containing from 52 to 62 pounds, of frozen rabbits at Bronx, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of fur and fecal matter.

DISPOSITION: July 13, 1950. Louis S. Behlman, Bronx, N. Y., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond, to be brought into compliance with the law, under the supervision of the Federal Security Agency. The rabbits, weighing a total of 11,862 pounds, were thawed and washed and the hair and fecal matter were thoroughly removed. As a result of this operation, a total of 872 pounds of the rabbits were found unfit and were denatured and given to a rendering company. The good portion, consisting of 10,990 pounds, was packed in 179 crates and frozen immediately.

16596. Adulteration of dressed poultry. U. S. v. 7 Crates, etc. (F. D. C. No. 29335. Sample Nos. 73116–K, 73117–K.)

LIBEL FILED: May 25, 1950, District of New Jersey.

ALLEGED SHIPMENT: On or about May 2 and 3, 1950, from Selbyville, Del., and New York, N. Y.

PRODUCT: 7 crates (400 pounds) of chickens and 10 crates (1,200 pounds) of turkeys in a storage warehouse, stored to the account of Armour & Co., Newark, N. J.

RESULTS OF INVESTIGATION: The product was stored in a rodent-infested establishment of Armour & Co., Newark, N. J., before being transferred to the warehouse.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta and rodent-gnawed birds; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: June 30, 1950. Armour & Co., Chicago, Ill., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the segregation of the fit from the unfit portion, under the supervision of the Food and Drug Administration. Salvaging operations resulted in the release of three crates of turkeys, and the remainder was delivered to a rendering plant.

16597. Adulteration of dressed poultry. U. S. v. 15 Crates * * *. (F. D. C. No. 29316. Sample No. 73115–K.)

LIBEL FILED: May 31, 1950, Southern District of New York.

ALLEGED SHIPMENT: On or about April 27, 1950, by the Sussex Poultry Co., Milford, Del.

PRODUCT: 15 crates, containing approximately 1,031 pounds of dressed poultry at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of fecal and other extraneous matter, and of a decomposed substance by reason of the presence of decomposed birds; and, Section 402 (a) (5), the product was in whole or in part the product of a diseased animal.

DISPOSITION: July 27, 1950. The shipper, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the salvaging of the fit portion, under the supervision of the Food and Drug Administration. Salvaging opera-

tions resulted in the segregation of approximately 900 pounds of poultry which were fit for consumption. The remainder (131 pounds) was denatured and delivered to a fat rendering company.

MISCELLANEOUS FOODS

16598. Adulteration of fountain preparations (black walnut frappe, Coco-Pronto, crushed cherries, and walnut sundae). U. S. v. J. Hungerford Smith Co. Plea of nolo contendere. Fine, $800. (F. D. C. No. 29168. Sample Nos. 2147–K, 14724–K, 68990–K, 69466–K, 77003–K.)

INFORMATION FILED: July 21, 1950, Western District of New York, against J. Hungerford Smith Co., a corporation, Rochester, N. Y.

ALLEGED SHIPMENT: On or about October 24 and December 27 and 28, 1949, and January 18, 1950, from the State of New York into the District of Columbia and the States of Indiana, Pennsylvania, and Missouri.

LABEL, IN PART: "J. Hungerford Smith's Cream-Pak Brand Black Walnut Frappe [or "Coco-Pronto for making Hot Cocoa," "Walnut Sundae," or "Crushed Cherries"] J. Hungerford Smith Co."

NATURE OF CHARGE: Adulteration, Section 402 (a) (4), the products had been prepared under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: August 14, 1950. A plea of nolo contendere having been entered, the court fined the defendant $800.

16599. Misbranding of gelatin dessert. U. S. v. 15 Cases * * *. (F. D. C. No. 29403. Sample No. 67510–K.)

LIBEL FILED: July 17, 1950, District of Maryland.

ALLEGED SHIPMENT: On or about May 29, 1950, by the Vernon Food Corp., from Mount Vernon, N. Y.

PRODUCT: 15 cases, each containing 48 3-ounce packages, of gelatin dessert at Baltimore, Md.

LABEL, IN PART: (Package) "Vitamin Enriched Tic Toc True Fruit Strictly Kosher Grape [or "Pineapple," "Raspberry," "Cherry," or "Strawberry"] Flavor Gelatin Dessert."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label designation "True Fruit Grape Flavor [or "Strawberry," "Cherry," "Raspberry," or "Pineapple"]," together with a vignette of bunches of grapes (or strawberries, cherries, raspberries, or pineapples) and the statements "The Flavor of the Fresh Fruit Itself * * * contains only true fruit flavors captured from the fresh fruit itself * * * Delicious as the fresh fruit itself," were false and misleading as applied to the article, which was artificially flavored; and the label statement "Vitamin Enriched" was false and misleading since it implied the addition of other vitamins than vitamin B_1.

Further misbranding, Section 403 (j), the article purported to be and was represented as a food for special dietary uses by reason of its vitamin content, and its label failed to bear as required by regulations a statement of the proportion of the minimum daily requirement for vitamin B_1 supplied by the article when consumed in a specified quantity during a period of one day.

DISPOSITION: August 15, 1950. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution.

16600. Misbranding of Poi. U. S. v. 10 Cases * * *. (F. D. C. No. 29270. Sample Nos. 50857–K, 50865–K.)

LIBEL FILED: June 13, 1950, Western District of Washington.

ALLEGED SHIPMENT: On or about April 19, 1950, by Thomas T. Tateishi Co., from Honolulu, T. H.

PRODUCT: 10 cases, each containing 24 jars, of Poi at Seattle, Wash.

LABEL, IN PART: "Kukui Brand Hawaiian Ready Mixed Poi Net Contents 14 Oz. Packed By Hawaiian Fruit Candy Factory Kalaheo, Kauai, Hawaii."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents. (The jars contained less than 14 ounces, the declared weight.)

DISPOSITION: September 29, 1950. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for use as animal feed.

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FEDERAL SECURITY AGENCY

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Costmetic Act]

16601–16650

FOODS

The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Federal Security Agency, and include, where indicated, the results of investigations of the Agency, prior to the institution of the proceedings. Published by direction of the Federal Security Administrator.

PAUL B. DUNBAR, *Commissioner of Food and Drugs.*

WASHINGTON, D. C., *January 29, 1951*

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CEREALS AND CEREAL PRODUCTS

BAKERY PRODUCTS

16601. **Adulteration of cookies. U. S. v. Arthur J. Frank (Frank Cookie Co.) and Herschell B. Frank. Pleas of nolo contendere. Each individual defendant fined $100.** (F. D. C. No. 29167. Sample Nos. 52898–K, 63881–K to 63883–K, incl.)

INFORMATION FILED: June 26, 1950, Middle District of Tennessee, against Arthur J. Frank, trading as the Frank Cookie Co., and Herschell B. Frank, Nashville, Tenn.

ALLEGED SHIPMENT: Between the approximate dates of October 19 and November 23, 1949, from the State of Tennessee into the States of Indiana and Georgia.

LABEL, IN PART: (Portion) "Frank's Vanilla Wafers" and "Frank's Coconut Cookies."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in part of filthy substances by reason of the presence of insect fragments and rodent hair fragments; and, Section 402 (a) (4), they had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: October 18, 1950. Pleas of nolo contendere having been entered, the court fined each defendant $100.

16602. **Adulteration of oatcakes. U. S. v. 48 Packages * * *.** (F. D. C. No. 29660. Sample No. 79904–K.)

LIBEL FILED: July 21, 1950, District of Massachusetts.

ALLEGED SHIPMENT: On or about May 8 and June 22, 1950, by C. S. Davisson & Co., from New York, N. Y.

PRODUCT: 48 1-pound packages of oatcakes at Boston, Mass.

NATURE OF CHARGE: Adulteration, Section 402(a) (3), the product was unfit for food by reason of its rancidity.

DISPOSITION: October 9, 1950. Default decree of condemnation and destruction.

FLOUR

Nos. 16603 to 16607 report actions involving flour that was insect- or rodent-infested, or both. (In those cases in which the time of contamination was known, that fact is stated in the notice of judgment.) The flour reported in **No. 16608** failed to meet the standard for enriched flour.

16603. **Action to enjoin and restrain the interstate shipment of buckwheat flour and corn meal. U. S. v. Stuart Roser. Consent decree granting injunction.** (Injunction No. 223).

COMPLAINT FILED: January 27, 1950, District of Maryland, against Stuart Roser, Parkton, Md.

NATURE OF CHARGE: That the defendant had been, and was at the time, introducing and delivering for introduction into interstate commerce, at Park-

ton, Md., buckwheat flour and corn meal which were adulterated in the following respects: Section 402 (a) (3), the products consisted in part of filthy substances, such as insects, insect fragments, rodent hair fragments, and rodent excreta pellets; and, Section 402 (a) (4), the products had been, and were still being, prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

The complaint alleged further that the insanitary conditions in the defendant's plant arose out of the presence of rodents and insects in and around grain, machinery, and equipment used for preparing and packing the products, and the presence of rodent pellets and insects in other parts of the plant where the products were prepared and packed; and that the defendant still continued to introduce into interstate commerce, shipments of adulterated buckwheat flour and corn meal, and would continue to ship such products unless enjoined from so doing.

DISPOSITION: January 27, 1950. The defendant having consented to the entry of a decree, the court issued an order perpetually enjoining the defendant from introducing and delivering for introduction into interstate commerce, buckwheat flour and corn meal adulterated as alleged in the complaint.

16604. Adulteration of flour. U. S. v. 27 Bags, etc. (F. D. C. No. 29552. Sample Nos. 84192–K to 84194–K, incl.)

LIBEL FILED: August 30, 1950, Southern District of Ohio.

ALLEGED SHIPMENT: On or about April 19 and May 17, 1950, from Alton, Ill., and Hastings, Minn.

PRODUCT: 27 100-pound bags of pastry flour, 114 100-pound bags of bromated flour, and 7 100-pound bags of rye flour at Cincinnati, Ohio.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of insects and insect parts. The products were adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: September 29, 1950. The Russell-Miller Milling Co., Alton, Ill., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and court ordered that the products be released under bond, conditioned that they be denatured by the addition of clay. The denatured products were to be used by foundries.

16605. Adulteration of flour. U. S. v. 39 Bags * * *. (F. D. C. No. 29554. Sample No. 72446–K.)

LIBEL FILED: August 30, 1950, Southern District of Ohio.

ALLEGED SHIPMENT: On or about April 25, 1949, from Alton, Ill.

PRODUCT: 39 100-pound bags of flour at Cincinnati, Ohio.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects, insect parts, and rodent hair fragments. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: October 10, 1950. The Russell-Miller Milling Co., Alton, Ill., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond

so that it could be mixed with clay to make molds, under the supervision of the Federal Security Agency.

16606. Adulteration of flour. U. S. v. 21 Bags * * *. (F. D. C. No. 29584. Sample No. 88143–K.)

LIBEL FILED: September 14, 1950, Western District of Texas.

ALLEGED SHIPMENT: On or about July 3, 1950, from Lamar, Colo.

PRODUCT: 21 100-pound bags of flour at El Paso, Tex.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and insect parts. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: November 2, 1950. Default decree of condemnation and destruction.

16607. Adulteration of whole wheat flour. U. S. v. 17 Bags * * *. (F. D. C. No. 29572. Sample No. 33768–K.)

LIBEL FILED: September 7, 1950, Northern District of California.

ALLEGED SHIPMENT: On or about March 17, 1950, from Portland, Oreg.

PRODUCT: 17 100-pound bags of whole wheat flour at Sacramento, Calif.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: September 20, 1950. Default decree of condemnation and destruction. The product subsequently was fed to animals.

16608. Misbranding of enriched flour. U. S. v. Fraser Milling Co. Plea of nolo contendere. Fine, $100. (F. D. C. No. 29611. Sample No. 68040–K.)

INFORMATION FILED: August 26, 1950, District of New Mexico, against the Fraser Milling Co., a corporation, Albuquerque, N. Mex.

ALLEGED SHIPMENT: On or about January 23, 1950, from the State of New Mexico into the State of Texas.

LABEL, IN PART: "Duke City High Patent Four Enriched."

NATURE OF CHARGE: Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for enriched flour since each pound of the article contained less than 2.0 milligrams of thiamine, 1.2 milligrams of riboflavin, 16.0 milligrams of niacin, and 13.0 milligrams of iron, the minimum permitted by the standard.

DISPOSITION: September 14, 1950. A plea of nolo contendere having been entered, the court imposed a fine of $100.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS

16609. Adulteration of cereal products. U. S. v. Ararat Co., Inc., and Sarkis G. Sarkisian. Pleas of guilty. Corporation fined $200 and individual defendant $50. (F. D. C. No. 29139. Sample Nos. 57506–K, 57508–K, 57511–K, 64097–K, 64098–K.)

INFORMATION FILED: October 3, 1950, District of Massachusetts, against Ararat Co., Inc., a corporation, Cambridge, Mass., and Sarkis G. Sarkisian, president and treasurer of the corporation.

ALLEGED SHIPMENT: On or about October 31 and November 1 and 2, 1949, from the State of Massachusetts into the States of New York and Minnesota.

LABEL, IN PART: (Portion) "Ararat * * * Wheat Cereal [or "Whole Wheat Cereal"]."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in part of filthy substances by reason of the presence of fragments of rodent excreta, rodent hair fragments, and insect fragments; and, Section 402 (a) (4), they had been prepared under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: October 17, 1950. Pleas of guilty having been entered, the court fined the corporation $200 and the individual defendant $50.

16610. Adulteration of popcorn. U. S. v. Joe F. Johnson (Joe F. Johnson Pop-Corn Co.). Plea of guilty. Fine of $500 and 60 days in jail; jail sentence suspended. (F. D. C. No. 28773. Sample Nos. 47203–K, 63817–K.)

INFORMATION FILED: June 26, 1950, Southern District of Ohio, against Joe F. Johnson, trading as the Joe F. Johnson Popcorn Co., Columbus, Ohio.

ALLEGED SHIPMENT: September 29 and 30, 1949, from the State of Ohio into the States of Pennsylvania and North Carolina.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of rat excreta, rodent hair fragments, larval head capsules, and insect fragments; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: July 25, 1950. The defendant having entered a plea of guilty, the court imposed a fine of $500 and a sentence of 60 days in jail; and on September 22, 1950, the court suspended the jail sentence.

16611. Adulteration of popcorn. U. S. v. 3 Bags * * *. (F. D. C. No. 29548. Sample No. 59024–K.)

LIBEL FILED: August 24, 1950, Eastern District of Wisconsin.

ALLEGED SHIPMENT: On or about July 31, 1950, by the ABC Popcorn Co., Inc., from Chicago, Ill.

PRODUCT: 3 100-pound bags of popcorn at Oshkosh, Wis.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta, insects, and insect parts.

DISPOSITION: September 28, 1950. Default decree of condemnation and destruction.

16612. Adulteration of popcorn. U. S. v. 48 Cases * * *. (F. D. C. No. 28826. Sample No. 68978–K.)

LIBEL FILED: January 30, 1950, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about December 21, 1949, and January 4, 1950, by the Better Taste Popcorn Co., from Anderson, Ind.

PRODUCT: 48 cases, each containing 24 cans, of popcorn at McKeesport, Pa.

LABEL, IN PART: "Net Wt. 10 Oz. Davis Hybrid Pop Corn."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments, insects, and insect fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: November 3, 1950. Judgment of condemnation and destruction.

16613. Adulteration of rice. U. S. v. 11 Bags * * *. (F. D. C. No. 29574. Sample No. 60598–K.)

LIBEL FILED: September 15, 1950, Northern District of Illinois.

ALLEGED SHIPMENT: On or about December 6, 1949, from Houston, Tex.

PRODUCT: 11 bags of rice at Chicago, Ill.

LABEL, IN PART: "100 Lbs. Net Rice Extra Fancy Texas Patna."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: November 8, 1950. Default decree of condemnation and destruction.

16614. Adulteration of wheat. U. S. v. 1,600 Bushels * * *. (F. D. C. No. 29576. Sample No. 21598–K.)

LIBEL FILED: September 7, 1950, District of Kansas.

ALLEGED SHIPMENT: On or about August 25, 1950, by the Huyck Grain Co., from Verona, Nebr.

PRODUCT: 1,600 bushels of wheat at Kansas City, Kans.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article was unfit for food by reason of the presence of musty wheat.

DISPOSITION: September 12, 1950. The Huyck Grain Co. having appeared as claimant, judgment was entered providing for delivery of the product to the claimant under bond, to be brought into compliance with the law, under the supervision of the Food and Drug Administration. The unfit portion of the product subsequently was segregated from the fit portion. A total of 63,400 pounds of wheat was found musty and was mixed with other grain for use as animal feed.

CONFECTIONERY

CANDY

16615. Adulteration of candy. U. S. v. Frederick & Nelson. Plea of nolo contendere. Fine of $3,500, plus costs. (F. D. C. No. 29172. Sample Nos. 32147–K, 32152–K, 34401–K to 34405–K, incl., 34407–K, 50082–K, 50084–K.)

INFORMATION FILED: June 5, 1950, Western District of Washington, against Frederick & Nelson, a corporation, Seattle, Wash.

ALLEGED SHIPMENT: On or about November 2 and 16 and December 1, 1949, from the State of Washington into the Territory of Alaska and the State of California.

LABEL, IN PART: (Portions) "Frango Mints," "Mokas Coffee Frango," "Jamacas Rum Frango," "P. R. Mints," and "Miniature Mints."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of insects, insect fragments, and rodent hairs; and, Section 402 (a) (4), the articles had been prepared, packed, or held under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: September 22, 1950. A plea of nolo contendere having been entered on behalf of the corporation, the court imposed a fine of $3,500, plus costs.

16616. Adulteration of candy. U. S. v. Wiggins Candy & Restaurant Co. Plea of guilty. Fine, $1,000. (F. D. C. No. 29594. Sample No. 2169–K.)

INFORMATION FILED: July 7, 1950, Eastern District of Pennsylvania, against Wiggins Candy & Restaurant Co., a corporation, Lancaster, Pa.

ALLEGED SHIPMENT: On or about March 6, 1950, from the State of Pennsylvania into the District of Columbia.

LABEL, IN PART: "Wiggins Easter Nests."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of rodent hair fragments; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: September 28, 1950. A plea of guilty having been entered, the court imposed a fine of $1,000.

16617. Adulteration of candy. U. S. v. 192 Packages * * *. (F. D. C. No. 29567. Sample Nos. 34705–K, 34706–K.)

LIBEL FILED: September 1, 1950, Southern District of California.

ALLEGED SHIPMENT: On or about October 11 and November 21, 1947, from Salt Lake City, Utah.

PRODUCT: 192 9-ounce packages of chocolate mints and 192 14-ounce packages of chocolate orange sticks at Fresno, Calif.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of insects and insect excreta. The articles were adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: October 25, 1950. Default decree of condemnation and destruction.

16618. Misbranding of hard candy. U. S. v. 10 Cases * * *. (F. D. C. No. 29571. Sample No. 32729–K.)

LIBEL FILED: September 5, 1950, Southern District of California.

ALLEGED SHIPMENT: On or about June 24, 1946, by the Jane Shaw Candy Co., from New York, N. Y.

PRODUCT: 10 cases, each containing 24 11-ounce jars, of hard candy at Bakersfield, Calif.

LABEL, IN PART: "11 Oz. Net Jane Shaw Hard Candy."

NATURE OF CHARGE: Misbranding, Section 403 (a), the product contained artificial coloring and failed to bear labeling stating that fact.

DISPOSITION: November 6, 1950. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution since it contained nothing deleterious and was fit for human consumption.

DAIRY PRODUCTS

BUTTER

16619. Adulteration of butter. U. S. v. De Coursey Cream Co. Plea of guilty. Fine of $200, plus costs. (F. D. C. No. 28758. Sample Nos. 42154–K, 42158–K, 42168–K.)

INFORMATION FILED: February 24, 1950, District of Kansas, against the De Coursey Cream Co., a corporation, Wichita, Kans.

ALLEGED SHIPMENT: On or about May 24 and June 4, 1949, from the State of Kansas into the State of Illinois.

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent of the product, milk fat, had been in part omitted; and, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: October 12, 1950. A plea of guilty having been entered, the court fined the defendant $200, plus costs.

CHEESE

16620. Adulteration of Cheddar cheese. U. S. v. 25 Boxes, etc. (F. D. C. No. 29557. Sample No. 76814–K.)

LIBEL FILED: August 30, 1950, Western District of Tennessee.

ALLEGED SHIPMENT: On or about July 29, 1950, from Carthage, Mo., by the Carthage Creamery Co.

PRODUCT: 25 boxes, each containing 2 10-pound prints, and 52 boxes, each containing 4 5-pound prints, of Cheddar cheese at Memphis, Tenn.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of moldy and otherwise decomposed cheese.

DISPOSITION: October 9, 1950. Default decree of condemnation. The product was ordered delivered to a public institution, to be disposed of for purposes other than for human consumption.

16621. Adulteration of Cheddar cheese and pimento cheese. U. S. v. 40 Cases, etc. (F. D. C. No. 29549. Sample No. 71560–K.)

LIBEL FILED: August 25, 1950, Southern District of California.

ALLEGED SHIPMENT: On or about May 29, 1950, by Bluhill Foods, Inc., from Denver, Colo.

PRODUCT: 40 cases, each containing 108 3-ounce packages, and 5 cases, each containing 72 5-ounce packages, of pimento cheese; and 7 cases, each containing 108 3-ounce packages, and 3 cases, each containing 72 5-ounce packages, of Cheddar cheese, at Los Angeles, Calif.

LABEL, IN PART: "Bluhill Pimento Cheese" and "Bluhill Aged Cheddar (American) Cheese."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of decomposed substances and were otherwise unfit for food by reason of their musty odor and flavor.

DISPOSITION: November 1, 1950. Default decree of condemnation and destruction.

FISH AND SHELLFISH

16622. Adulteration of frozen flounder. U. S. v. 44 Cartons * * *. (F. D. C. No. 29582. Sample No. 81932–K.)

LIBEL FILED: September 11, 1950, Middle District of Georgia.

ALLEGED SHIPMENT: On or about August 28, 1950, from Portland, Maine, by the Cumberland Cold Storage Co.

PRODUCT: 44 cartons, each containing 10 boxes, of frozen flounder at Athens, Ga.

LABEL, IN PART: "Adams Selected Frozen Flounder Five Pounds Net Weight When Packed J. Adams & Co. Inc. * * * Boston, Mass."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: October 10, 1950. Default decree of condemnation and destruction.

16623. Adulteration of whitefish. U. S. v. 5 Boxes * * *. (F. D. C. No. 29286. Sample No. 75614–K.)

LIBEL FILED: June 23, 1950, Northern District of Illinois.

ALLEGED SHIPMENT: On or about June 19, 1950, by D. J. McCarthy, from Ranier, Minn.

PRODUCT: 5 boxes, containing a total of 362 pounds, of whitefish at Chicago, Ill.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of parasitic worms.

DISPOSITION: September 6, 1950. Default decree of condemnation and destruction.

16624. Adulteration of canned herring roe. U. S. v. 23 Cases * * *. (F. D. C. No. 29297. Sample No. 67224–K.)

LIBEL FILED: July 12, 1950, Middle District of Pennsylvania.

ALLEGED SHIPMENT: On or about May 31, 1950, by the Tilghman Packing Co., from St. Michaels, Md.

PRODUCT: 23 cases, each containing 24 15-ounce cans, of herring roe at Hanover, Pa.

LABEL, IN PART: "Susquehanna Brand * * * Fresh River Herring Roe."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), brine had been substituted in part for herring roe. (The 15-ounce cans of the product should have contained at least 13.32 ounces of drained roe, whereas the average drained weight of the product was 10.96 percent below that figure.)

DISPOSITION: September 8, 1950. Default decree of condemnation and destruction.

16625. Misbranding of salmon caviar. U. S. v. 10 Cartons * * *. (F. D. C. No. 29500. Sample No. 54800–K.)

LIBEL FILED: On or about July 28, 1950, Eastern District of Louisiana.

ALLEGED SHIPMENT: On or about June 20, 1950, by the Romanoff Caviar Co., from New York, N. Y.

PRODUCT: 10 cartons, each containing 12 4-ounce jars, of salmon caviar.

LABEL, IN PART: "Romar Brand Ketovaya Salmon Caviar."

NATURE OF CHARGE: Misbranding, Section 403 (i) (2), the article was fabricated from two or more ingredients, and it failed to bear a label containing the common or usual name of each such ingredient; and, Section 403 (k), the article contained artificial color and failed to bear labeling stating that fact.

DISPOSITION: August 23, 1950. Default decree of condemnation and destruction.

16626. Action to enjoin and restrain the interstate shipment of oysters. U. S. v. Herman S. Thompson (Thomas & Thompson). Consent decree granting injunction. (Injunction No. 227.)

COMPLAINT FILED: March 20, 1950, District of Maryland, against Herman S. Thompson, trading under his name and as Thomas & Thompson, at Grasonville, Md.

NATURE OF CHARGE: That the defendant had been, and was at the time, introducing and delivering for introduction into interstate commerce, at Grasonville, Md., oysters which were adulterated under Section 402 (b) (2), in that excess water had been substituted in part for oysters, and which were misbranded under Section 403 (g) (1), in that the oysters purported to be, and were represented as, oysters selects, oysters extra selects, and oysters standards; and they failed to conform to the definitions and standards of identity for such oysters in the following respects: The oysters prepared and packed by the defendant at his plant were not thoroughly drained; they were shucked into vessels containing fresh water in excess of 25 percent of the capacity of the vessel; after leaving the shucker, the total time that the oysters were in contact with water agitated by blowing was more than fifteen minutes; and the "Standards," "Selects," and "Extra Selects" were not being graded in the manner prescribed by the standard for oysters, since the "Standards" and "Extra Selects" contained more small oysters than permitted by the standard and the "Selects" contained more large oysters than permitted by the standard.

The complaint alleged further that various investigations had been made during the year 1949 by representatives of the Food and Drug Administration, at which time the defendant was warned to correct his method of operation and not to introduce or deliver for introduction into interstate commerce, foods which were adulterated and misbranded; that despite such warning, the defendant failed to correct his method of operation at the plant operated by him and was continuously shucking, preparing, packing, and shipping in interstate commerce, oysters which were adulterated and misbranded; and that the defendant would continue to introduce and deliver for introduction into interstate commerce, oysters in violation of the Act, unless enjoined from so doing.

DISPOSITION: April 12, 1950. The defendant having consented to the entry of a decree, the court issued an order perpetually enjoining the defendant from introducing and delivering for introduction into interstate commerce, oysters which were adulterated and misbranded within the meaning of the Act.

16627. Action to enjoin and restrain the interstate shipment of oysters. U. S. v. Ernest I. Webb (E. I. Webb & Co.). Consent decree granting inpunction. (Injunction No. 226.)

COMPLAINT FILED: March 9, 1950, Eastern District of Virginia, against Ernest I. Webb, trading as E. I. Webb and Co., at Irvington and Weems, Va.

NATURE OF CHARGE: That the defendant had been, and was at the time, introducing and delivering for introduction into interstate commerce, at Irvington, Va., fresh shucked oysters which were adulterated under Section 402 (b) (2), in that excess water had been substituted in part for oysters, and which were misbranded under Section 403 (g) (1), in that the product purported to be, and was represented as, oysters selects and oysters standards, foods for which definitions and standards of identity had been prescribed by regulations, and they failed to conform to such definitions and standards since they were not thoroughly drained.

The complaint alleged further that various investigations had been made during the years 1948 and 1949 by representatives of the Food and Drug Administration, which showed the oysters being packed by the defendant with excess free liquid and the defendant allowing oysters to remain in contact with fresh water for periods of time in excess of that permitted by the oyster standards; that the defendant was warned to correct his method of operation; and that despite such warning, the defendant had failed to correct his method of operation and was continuously shucking, preparing, packing, and shipping in interstate commerce, oysters which were adulterated and misbranded as indicated above.

DISPOSITION: March 22, 1950. The defendant having consented to the entry of a decree, the court issued an order perpetually enjoining the defendant from shipping in interstate commerce any oysters which were adulterated and misbranded within the meaning of the Act.

16628. Adulteration of frozen crab meat. U. S. v. 110 Cans * * *. (F. D. C. No. 29561. Sample Nos. 35990–K, 35991–K.)

LIBEL FILED: September 5, 1950, Northern District of California.

ALLEGED SHIPMENT: On or about August 19, 1950, by the Washington Fish & Oyster Co., from Seattle, Wash.

PRODUCT: 110 5-pound cans of frozen crab meat at San Francisco, Calif.

LABEL, IN PART: "Pacific Pearl Brand Ocean Caught Crab Meat Packed By Pacific Pearl of Alaska Inc. Ketchikan Alaska."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a putrid and decomposed substance.

DISPOSITION: September 19, 1950. The Washington Fish & Oyster Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency. The unfit portion was segregated, with the result that 32 cans were rejected as decomposed and were destroyed. The remainder of the product was classified as passable and was released.

16629. Adulteration of frozen crab meat. U. S. v. 87 Cans * * *. (F. D. C. No. 29560. Sample No. 31879–K.)

LIBEL FILED: August 30, 1950, Southern District of California.

ALLEGED SHIPMENT: On or about August 19, 1950, by the San Juan Fishing & Packing Co., from Seattle, Wash.

PRODUCT: 87 cans of crab meat at Los Angeles, Calif.

LABEL, IN PART: "Pacific Pearl Brand Crab Meat Packed By Pacific Pearl of Alaska Co. Ketchikan Alaska Net Weight 5 Lbs. When Packed."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: September 26, 1950. Default decree of condemnation. The court ordered that the product be denatured under the supervision of the Food and Drug Administration and that it be delivered to the Fish and Game Commission, for use as fish food.

16630. Adulteration of frozen crab meat. U. S. v. 36 Cans * * *. (F. D. C. No. 29566. Sample No. 67762–K.)

LIBEL FILED: September 7, 1950, District of Utah.

ALLEGED SHIPMENT: On or about August 18, 1950, by the San Juan Fishing & Packing Co., from Seattle, Wash.

PRODUCT: 36 5-pound cans of frozen crab meat at Salt Lake City, Utah.

LABEL, IN PART: "Pacific Pearl Brand Ocean Caught Crab Meat Packed By Pacific Pearl of Alaska Inc. Ketchikan Alaska."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed crab meat.

DISPOSITION: October 14, 1950. Default decree of condemnation and destruction.

16631. Adulteration of canned shrimp. U. S. v. 154 Cases * * * (and 1 other seizure action). (F. D. C. Nos. 28409, 28423. Sample Nos. 67622–K, 67625–K, 67916–K.)

LIBELS FILED: December 7, 1949, District of Colorado.

ALLEGED SHIPMENT: On or about October 31, 1949, by the Anticich Canning Co., from Biloxi, Miss.

PRODUCT: 154 cases and 264 cases, each case containing 48 cans, of shrimp at Pueblo and Denver, Colo., respectively.

LABEL, IN PART: "American Beauty Medium Shrimp Wet Pack Drained Weight 5 Ozs."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed shrimp.

DISPOSITION: July 7, 1950; amended decree filed October 20, 1950. The Anticich Canning Co., claimant, having consented to the entry of decrees, judgments were entered finding that certain codes in each lot (a total of 239 cases) were not adulterated and ordering such codes released.

The remaining codes (totaling 171 cases) were condemned and released under bond, conditioned that they be disposed of in compliance with the law. These codes were sorted to separate the fit from the unfit, which resulted in the salvaging of 62 cases and 18 cans from the 171 cases.

16632. Adulteration of canned shrimp. U. S. v. 77 Cases * * *. (F. D. C. No. 29015. Sample No. 73511–K.)

LIBEL FILED: March 20, 1950, District of Connecticut.

ALLEGED SHIPMENT: On or about December 30, 1949, by the Peer Foods Co., from New Orleans, La.

PRODUCT: 77 cases, each containing 48 5-ounce cans, of shrimp at Hartford, Conn.

LABEL, IN PART: "Our Special Brand Medium Shrimp * * * Distributed by Tropical Foods Co. New Orleans, La."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed shrimp.

DISPOSITION: October 2, 1950. The sole intervener having withdrawn its claim, judgment of condemnation and destruction was entered.

FRUITS AND VEGETABLES

CANNED FRUIT

16633. Adulteration of canned prunes and misbranding of canned peaches. U. S. v. John Clare Tracy and W. Emery Hobbs (J. C. Tracy & Co.). Pleas of guilty. John Clare Tracy fined $300 and W. Emery Hobbs fined $200. (F. D. C. No. 28771. Sample Nos. 50200–K, 51963–K.)

INFORMATION FILED: July 13, 1950, District of Oregon, against John Clare Tracy and W. Emery Hobbs, trading as J. C. Tracy & Co., Dallas, Oreg.

ALLEGED SHIPMENT: On or about July 29 and August 29, 1949, from the State of Oregon into the States of Indiana and Pennsylvania.

LABEL, IN PART: "Tracy's Brand Specially Prepared And Confectionized Oregon Dried Prunes" and "Tracy's Brand Yellow Freestone Peach Halves."

NATURE OF CHARGE: Prunes. Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insects, insect fragments, and rodent hairs; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

Peaches. Misbranding, Section 403 (h) (1), the product purported to be and was represented as canned peaches, a food for which a standard of quality has been prescribed by regulations, and its quality fell below such standard since all peach units in the product were not untrimmed or were so trimmed as not to preserve their normal shape; and the label on the product failed to bear a statement that the product fell below such standard.

DISPOSITION: October 10, 1950. Pleas of guilty having been entered, the court fined John Clare Tracy $300 and W. Emery Hobbs $200.

FROZEN FRUIT

16634. Adulteration of frozen strawberries. U. S. v. Bateman Frozen Foods Co. and Clifford H. Bateman. Pleas of nolo contendere. Each defendant fined $150. (F. D. C. No. 28202. Sample Nos. 8649–K, 8650–K.)

INFORMATION FILED: December 27, 1949, Middle District of Georgia against the Bateman Frozen Foods Co., a corporation, Macon, Ga., and Clifford H. Bateman, president of the corporation.

ALLEGED SHIPMENT: On or about May 20 and June 18, 1949, from the State of Georgia into the State of New York.

LABEL, IN PART: (Can) "25 Lbs Net Juice Stock Strawberries Packed by Bateman Frozen Foods Co. Macon, Ga."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product was adulterated by reason of the presence of decomposed strawberries.

DISPOSITION: November 16, 1950. Pleas of nolo contendere having been entered, the court fined each defendant $150.

VEGETABLES AND VEGETABLE PRODUCTS

16635. Adulteration of dried beans. U. S. v. 25 Sacks * * *. (F. D. C. No. 29589. Sample No. 35613–K.)

LIBEL FILED: September 15, 1950, Northern District of California.

ALLEGED SHIPMENT: On or about November 7, 1949, from Dover, Okla.

PRODUCT: 25 sacks of dried beans at San Francisco, Calif.

LABEL, IN PART: "100 Lbs. Net Wt. Domestic Type Azukis."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent urine. It was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: November 15, 1950. Default decree of condemnation and destruction.

16636. Adulteration of canned corn. U. S. v. 291 Cases * * *. (F. D. C. No. 29563. Sample No. 84273–K.)

LIBEL FILED: September 1, 1950, Middle District of Tennessee.

ALLEGED SHIPMENT: On or about July 8, 1950, by Chippewa Canneries, from Chippewa Falls, Wis.

PRODUCT: 291 cases, each containing 24 1-pound cans, of corn at Nashville, Tenn.

LABEL, IN PART: "Sally Ann Brand Creamstyle Golden Corn."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of worm parts.

DISPOSITION: November 3, 1950. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution, for use as animal feed.

16637. Adulteration and misbranding of canned corn. U. S. v. 1,774 Cases * * *. (F. D. C. No. 29483. Sample Nos. 72512–K, 72515–K, 72516–K.)

LIBEL FILED: July 10, 1950, Southern District of Indiana.

ALLEGED SHIPMENT: On or about March 27 and April 20, 1950, from Chicago and Onarga, Ill., by the Lansing B. Warner Co.

PRODUCT: 1,774 cases, each containing 24 unlabeled No. 2 cans, of corn at Eaton, Ind.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

Misbranding, Section 403 (g) (1), the product fell below the standard of identity for canned corn since it had not been so processed by heat as to prevent spoilage.

DISPOSITION: August 29, 1950. Default decree of condemnation and destruction.

16638. Adulteration and misbranding of canned peas. U. S. v. 107 Cases * * *. (F. D. C. No. 29485. Sample No. 72518–K.)

LIBEL FILED: July 20, 1950, Southern District of Indiana.

ALLEGED SHIPMENT: On or about May 19 and 26, 1950, from Onarga, Ill., by Lansing B. Warner, Inc., and Ray W. Thomas.

PRODUCT: 107 cases, each containing 24 unlabeled No. 2 cans, of peas at Shideler, Ind.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

Misbranding, Section 403 (g) (1), the product fell below the standard of identity for canned peas since it had not been processed by heat so as to prevent spoilage.

DISPOSITION: August 29, 1950. Default decree of condemnation and destruction.

16639. Adulteration of green split peas. U. S. v. 29 Bags * * *. (F. D. C. No. 29551. Sample No. 72445–K.)

LIBEL FILED: August 29, 1950, Southern District of Ohio.

ALLEGED SHIPMENT: On or about March 6, 1950, from Denver, Colo.

PRODUCT: 29 bags of green split peas at Cincinnati, Ohio.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and insect parts. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: October 27, 1950. Default decree of condemnation. The court ordered that the product be delivered to an institution, for use as stock feed.

16640. Adulteration of canned pimentos. U. S. v. 2,500 Cases * * *. (F. D. C. No. 29018. Sample No. 73826–K.)

LIBEL FILED: March 23, 1950, Eastern District of New York.

ALLEGED SHIPMENT: On or about January 23, 1950, by the Brownsville Canning Co., from Brownsville, Tex.

PRODUCT: 2,500 cases, each containing 48 4-ounce cans, of pimentos at Brooklyn, N. Y.

LABEL, IN PART: (Can) "Dromedary Whole Pods Pimientos."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

DISPOSITION: August 11, 1950. Default decree of condemnation and destruction.

16641. Adulteration of canned spinach. U. S. v. Delbert E. Allen, et al., (Allen Canning Co.). Plea of nolo contendere by Delbert E. Allen. Fine, $25. Action against other defendants dismissed. (F. D. C. No. 29146. Sample Nos. 64790–K, 70006–K.)

INFORMATION FILED: April 25, 1950, Western District of Arkansas, against Delbert E. Allen and others, trading as the Allen Canning Co., a partnership, Siloam Springs, Ark.; amended information filed September 11, 1950.

ALLEGED SHIPMENT: On or about October 29 and November 5, 1949, from the State of Arkansas into the States of Oklahoma and Iowa.

LABEL, IN PART: "The Allens Brand [or "Allen Hi-Grade Brand"] Spinach."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of grass and weeds.

DISPOSITION: September 29, 1950. A plea of nolo contendere having been entered by Delbert E. Allen, the court fined the defendant $25. Thereupon, the court dismissed the action against the other defendants.

16642. Adulteration of canned spinach. U. S. v. 500 Cases * * *. (F. D. C. Nos. 29558, 29564. Sample Nos. 59336–K, 84930–K.)

LIBELS FILED: August 31 and September 6, 1950, Southern District of Ohio and Northern District of Indiana.

ALLEGED SHIPMENT: On or about May 4, June 8, and July 5, 1950, by the Larsen Co., from Kent City, Mich., and Green Bay, Wis.

PRODUCT: Canned spinach. 500 cases at Dayton, Ohio, and 35 cases at South Bend, Ind. Each case contained 24 14½-ounce, or 15-ounce cans.

LABEL, IN PART: "Green Bay [or "Larsen's Freshlike"] Brand Cut Spinach."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and insect fragments.

DISPOSITION: October 19 and November 8, 1950. Default decrees of condemnation and destruction.

TOMATOES AND TOMATO PRODUCTS

16643. Adulteration and misbranding of canned tomatoes. U. S. v. 300 Cases * * * (and 1 other seizure action). (F. D. C. Nos. 29689, 29690. Sample No. 66843–K.)

LIBELS FILED: August 16, 1950, Western District of South Carolina.

ALLEGED SHIPMENT: On or about July 27, 1950, by the Belmont Canning Co., from Threeway, Va.

PRODUCT: 600 cases, each containing 24 cans, of tomatoes at Spartanburg and Greenville, S. C.

LABEL, IN PART: (Can) "Rich-West Brand Tomatoes Contents 1 Lb. 3 Ozs."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing added water had been substituted in whole or in part for canned tomatoes.

Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for canned tomatoes since it contained added water, which is not permitted as an ingredient of canned tomatoes; and, Section 403 (h) (1), the quality of the article fell below the standard of quality for canned tomatoes since the drained weight of the contents of the container was less than 50 percent of the weight of water required to fill the container, and its label failed to bear a statement that the article fell below such standard of quality.

DISPOSITION: September 22, 1950. Default decrees of condemnation. The court ordered that the product be delivered to a charitable institution for its use and not for sale.

16644. Adulteration of tomato catsup. U. S. v. 35 Cases * * *. (F. D. C. No. 29504. Sample No. 15496–K.)

LIBEL FILED: July 27, 1950, Eastern District of Michigan.

ALLEGED SHIPMENT: On or about March 3, 1950, by Hunt Foods, Inc., from Toledo, Ohio.

PRODUCT: 35 cases, each containing 24 14-ounce bottles, of tomato catsup at Dearborn, Mich.

LABEL, IN PART: "Hunt's Tomato Catsup."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: September 11, 1950. Default decree of condemnation and destruction.

16645. Adulteration of tomato puree. U. S. v. 500 Cases * * *. (F. D. C. No. 29562. Sample No. 77535–K.)

LIBEL FILED: September 6, 1950, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about July 11, 1950, by the Los Fresnos Canning Co., from Los Fresnos, Tex.

PRODUCT: 500 cases, each containing 6 6-pound, 8-ounce cans, of tomato puree at St. Louis, Mo.

LABEL, IN PART: "Conrad's * * * Darnoc Brand Tomato Puree."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of fly eggs and maggots.

DISPOSITION: October 2, 1950. Default decree of condemnation and destruction.

NUTS AND NUT PRODUCTS

16646. Action to enjoin and restrain the interstate shipment of nuts and nut products. U. S. v. Rose Foods, Inc., and Saul Rosenberg and M. Simsarian. Preliminary injunction issued. Case subsequently dismissed. (Inj. No. 221.)

COMPLAINT FILED: November 28, 1949, Southern District of California, against Rose Foods, Inc., Los Angeles, Calif., and Saul Rosenberg and M. Simsarian, president and secretary, respectively, of the corporation.

NATURE OF CHARGE: That the defendants had been, and were at the time, introducing and delivering for introduction into interstate commerce, at Los Angeles, Calif., nuts and nut products which were adulterated under Section 402(a) (4), in that the products had been, and were still being, prepared, packed, and held under insanitary conditions whereby they may have become contaminated with filth.

The complaint alleged further that the insanitary conditions in the defendants' plant arose out of the presence of both live and dead beetles and other insects, insect webbing, birds, bird droppings, and feathers in and around

machinery, equipment, and raw materials used in the manufacture, preparation, and holding of the products; and that the defendants continued to introduce in interstate commerce adulterated nuts and nut products, and would continue to so introduce such products unless enjoined from so doing.

DISPOSITION: December 19, 1949. After considering the affidavits of the other parties and the arguments of counsel, the court handed down its findings of fact and conclusions of law, together with its order granting a preliminary injunction against the introduction by the defendants into interstate commerce of any nuts or nut products which were adulterated as alleged in the complaint. It was further ordered that the preliminary injunction should expire on January 16, 1950. No action was taken to make the injunction permanent, and on March 6, 1950, the complaint for injunction was dismissed without prejudice.

16647. Adulteration of cashew nuts. U. S. v. 244 Cases * * *. (F. D. C. No. 29577. Sample No. 75715–K.)

LIBEL FILED: September 9, 1950, District of Minnesota.

ALLEGED SHIPMENT: On or about June 26 and August 3, 1950, from New York, N. Y., by the P. H. Petry Co.

PRODUCT: 244 50-pound cases of cashew nuts at Minneapolis, Minn.

LABEL, IN PART: "Packed By Travancore Cashew Nut Co. Quilon Blanched Cashew Kernels Scorched Wholes."

NATURE OF CHARGE: Adulteration, Section 402(a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects.

DISPOSITION: September 22, 1950. The Johnson Nut Co., Minneapolis, Minn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reprocessing and reconditioning under the supervision of the Federal Security Agency.

In accordance with the decree, the product was examined, and a total of 4½ cases of the product which showed the greatest degree of infestation were destroyed. The portion of the product containing slight to medium infestation was passed through a nut blancher to remove insect filth, with the result that an additional 22 cases were found unfit and were denatured as animal feed.

16648. Adulteration of cashew nuts. U. S. v. 162 Tins * * *. (F. D. C. No. 29583. Sample No. 75716–K.)

LIBEL FILED: September 13, 1950, District of Minnesota.

ALLEGED SHIPMENT: On or about June 12, 23, and 26, and August 3, 1950, from New York, N. Y.

PRODUCT: 162 25-pound tins of cashew nuts at Minneapolis, Minn.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: September 22, 1950. The Johnson Nut Co., Minneapolis, Minn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under

bond for reprocessing and reconditioning under the supervision of the Federal Security Agency.

A total of 99 25-pound tins of the product were reprocessed by running through a blancher, after which, upon examination, they were released for distribution for human use. 64 25-pound tins of the product were disposed of by conversion into hog feed.

16649. Adulteration of pecans. U. S. v. 9 Cases * * * (and 1 other seizure action). (F. D. C. Nos. 29052, 29265. Sample Nos. 70159–K, 81057–K.)

LIBELS FILED: April 10 and June 9, 1950, Eastern District of Pennsylvania and District of Nebraska.

ALLEGED SHIPMENT: On or about February 23 and January 26, 1950, by the Sunshine Pecan Co., from Cleveland, Ohio, and San Antonio, Tex.

PRODUCT: 9 cases, each containing 60 pounds, of pecan pieces at Philadelphia, Pa., and 33 cases, each containing 60 pounds, of the same product at Lincoln, Nebr.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), a portion of the product (9 cases) consisted in whole or in part of a decomposed substance by reason of the presence of decomposed pecan pieces, and it was otherwise unfit for food by reason of the presence of rancid pecan pieces; the remainder was unfit for food by reason of the presence of bitter, rancid, and black pecan pieces.

DISPOSITION: June 20 and July 27, 1950. The Sunshine Pecan Co., of San Antonio, Tex., claimant, having consented to the entry of decrees, judgments of condemnation were entered and the court ordered that the product be released under bond for separation of the good from the bad portion, under the supervision of the Food and Drug Administration. Reconditioning operations resulted in the salvage of 643 pounds and the destruction of 974 pounds.

16650. Adulteration of walnut meats. U. S. v. 4 Cases * * *. (F. D. C. No. 29303. Sample No. 78647–K.)

LIBEL FILED: July 19, 1950, District of Montana.

ALLEGED SHIPMENT: On or about June 16, 1950, from Modesto, Calif., by the Sunset Sternau Food Co.

PRODUCT: 4 25-pound cases of walnut meats at Anaconda, Mont.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect-damaged nut meats, and of a decomposed substance by reason of the presence of moldy nut meats.

DISPOSITION: September 22, 1950. Default decree of condemnation. The court ordered that the product be denatured and delivered to a State institution, for use as animal feed.

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[2] (16646) Preliminary injunction issued.

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[1] (16603, 16626, 16627) Permanent injunction issued.
[2] (16646) Preliminary injunction issued.

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FEDERAL SECURITY AGENCY

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

16651–16700

FOODS

The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Federal Security Agency, and include, where indicated, the results of investigations of the Agency, prior to the institution of the proceedings. Published by direction of the Federal Security Administrator.

PAUL B. DUNBAR, *Commissioner of Food and Drugs.*

WASHINGTON, D. C., *February 19, 1951*

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BEVERAGES AND BEVERAGE MATERIALS

16651. Adulteration of frozen cherry juice. U. S. v. 327 Cans * * *. (F. D. C. No. 29513. Sample Nos. 69370–K, 69374–K.)

LIBEL FILED: On or about August 4, 1950, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about May 22, 1950, by Model Kitchen Foods, Inc., from Grand Rapids, Mich.

PRODUCT: 327 30-pound cans of frozen cherry juice at Pittsburgh, Pa.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of flies, maggots, and fly eggs.

DISPOSITION: September 18, 1950. Default decree of condemnation and destruction.

16652. Adulteration of concentrated grapefruit juice. U. S. v. 180 Kegs, etc. (F. D. C. No. 29541. Sample No. 13732–K.)

LIBEL FILED: August 23, 1950, Middle District of Pennsylvania.

ALLEGED SHIPMENT: On or about August 20 and September 3, 1945, from Santa Ana, Calif.

PRODUCT: 567 15–gallon kegs of concentrated grapefruit juice at Bowmansdale, Pa.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article was unfit for food by reason of its extremely bitter taste rendering it unpalatable. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: September 21, 1950. Default decree of condemnation and destruction.

16653. Adulteration of grapefruit drink. U. S. v. 98 Cases * * *. (F. D. C. No. 29672. Sample No. 81372–K.)

LIBEL FILED: August 2, 1950, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about February 1, 1950, by the Ariston Canning Co., from Cologne, N. J.

PRODUCT: 98 cases, each containing 12 1-quart, 14-ounce cans, of grapefruit drink at Philadelphia, Pa.

LABEL, IN PART: (Can) "Sunny Brand California Grapefruit Drink."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article was unfit for food by reason of its turpentine odor and taste.

DISPOSITION: October 5, 1950. Default decree of condemnation and destruction.

16654. Adulteration of concentrated prune juice, U. S. v. 60 Drums * * *. (F. D. C. No. 29667. Sample No. 81386–K.)

LIBEL FILED: July 27, 1950, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about June 13, 1950, by the Henrietta Rancho Products Co., from Fresno, Calif.

PRODUCT: 60 55-gallon drums of concentrated prune juice at Philadelphia, Pa.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in

whole or in part of a filthy substance by reason of the presence of insects, insect parts, and rodent hair fragments.

DISPOSITION: September 21, 1950. Default decree of condemnation and destruction.

CEREALS AND CEREAL PRODUCTS

CORN MEAL

16655. Adulteration of corn meal. U. S. v. Wilson's Corn Products, Inc., and Glenn Wilson. Pleas of nolo contendere. Corporation fined $300, plus costs; individual defendant fined $150, plus costs. (F. D. C. No. 28175. Sample Nos. 42896–K, 42897–K, 60503–K.)

INFORMATION FILED: November 8, 1949, Northern District of Indiana, against Wilson's Corn Products, Inc., Rochester, Ind., and Glenn Wilson, president.

ALLEGED SHIPMENT: On or about June 20 and 21, 1949, from the State of Indiana into the States of New York and Illinois.

LABEL, IN PART: "Yellow Granulated Corn Meal" and "White [or "Yellow"] Cream Corn Meal."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of rodent excreta; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: April 12, 1950. Pleas of nolo contendere having been entered, the corporation was fined $300 and the individual defendant $150, plus costs.

FLOUR

16656. Adulteration of flour. U. S. v. 100 Bags * * *. (F. D. C. No. 28659. Sample No. 64458–K.)

LIBEL FILED: January 18, 1950, District of Minnesota.

ALLEGED SHIPMENT: On or about December 20, 1949, from Great Falls, Mont.

PRODUCT: 100 100-pound bags of flour at Moorhead, Minn.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: March 9, 1950. The Northwest Bakery Co., Moorhead, Minn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation of the unfit portion, under the supervision of the Food and Drug Administration. 140 bags of flour were seized, and of these, 4 bags were found to be contaminated and were destroyed.

16657. Adulteration of flour. U. S. v. 10 Bags, etc. (F. D. C. No. 29664. Sample Nos. 57461–K, 74875–K.)

LIBEL FILED: July 26, 1950, District of New Jersey.

ALLEGED SHIPMENT: On or about March 7 and June 19, 1950, from Minneapolis, Minn., and Brooklyn, N. Y.

PRODUCT: 25 100-pound bags of flour at Union City, N. J.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects and insect parts. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: October 2, 1950. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for use as stock feed.

MACARONI AND NOODLE PRODUCTS

16658. Adulteration of macaroni products. U. S. v. Procino-Rossi Corp. Plea of guilty. Fine, $1,500. (F. D. C. No. 29137. Sample Nos. 48664–K, 69017–K.)

INFORMATION FILED: June 6, 1950, Northern District of New York, against the Procino-Rossi Corp., Auburn, N. Y.

ALLEGED SHIPMENT: October 15 and 17, 1949, from the State of New York into the State of Pennsylvania.

LABEL, IN PART: "Made From Highest Grade 'A' No. 1 Semolina Finest Quality * * * Macaroni Products * * * Genoa Style Net Weight 1 Lb. * * * [or "Net Weight One Pound * * * Genoa Style No. 44 Mostaccioli Lisci" or "Net Weight One Pound * * * No. 36 Elbow"] Manufactured By Procino-Rossi Corp., Auburn, New York."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: October 4, 1950. A plea of guilty having been entered, the court fined the corporation $1,500.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS

16659. Misbranding of farina. U. S. v. Omar, Inc., and Harold Roth. Motion to dismiss overruled. Pleas of not guilty; tried to the court. Verdict of guilty for corporation; verdict of not guilty for individual. Fine of $25 against corporation. (F. D. C. No. 17857. Sample Nos. 20033–H, 21624–H.)

INFORMATION FILED: July 10, 1946, District of Nebraska, against Omar, Inc., Omaha, Nebr., and Harold Roth, vice president and general manager of the milling division of the corporation.

ALLEGED SHIPMENT: On or about October 23, 1944, and March 15, 1945, from the State of Nebraska into the State of Iowa.

LABEL, IN PART: "Omar Vitamin Rich Farina."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label statement "Vitamin Rich" was false and misleading in that such statement represented and suggested that the article was rich in vitamins, i. e., that it had been enriched by added vitamins, whereas the article had not been enriched by added vitamins; Section 403 (g) (1), the article purported to be enriched farina, a food for which a definition and standard of identity had been prescribed

by regulations, and it failed to conform to such definition and standard since it contained in each pound less than 1.66 milligrams of vitamin B_1, less than 6 milligrams of niacin, and less than 6 milligrams of iron, which amounts are the minima permitted by the definition and standard.

DISPOSITION: On July 19, 1946, the defendant filed a motion to dismiss the information, and on May 5, 1948, after consideration of the briefs and arguments of counsel, the motion was overruled. Thereafter, pleas of not guilty were entered and the case came on for trial before the court without a jury, on the basis of the stipulations and affidavits of the parties. On June 5, 1950, the court handed down the following opinion and judgment:

DONOHOE, *District Judge:* "This prosecution was instituted by the United States against Omar, Incorporated, and Harold Roth, Vice President and General Manager of the Milling Division of said corporation, for alleged violations of the Pure Food and Drug Act.

"It is stipulated by the parties that Omar, Incorporated, on or about October 23, 1944, and March 15, 1945, introduced into interstate commerce at Omaha, Nebraska, for delivery to Council Bluffs, Iowa, and consigned to Boedecker System Stores, sundry cartons of farina which were labeled as follows:

OMAR
Vitamin Rich
FARINA

The complaint charges the defendants with misbranding the food within the meaning of 21 U. S. C. 343 (a), which provides that a food shall be deemed to be misbranded if its labeling is false or misleading in any particular. The particular in which the Omar Farina label is said to be misleading is in the statement 'Vitamin Rich,' in that said statement 'represented and suggested that said food was rich in vitamins, to wit, that said food had been enriched by added vitamins, whereas, in fact and in truth, said food was not rich in vitamins, to wit, said food had not been enriched by added vitamins.' The complaint further charges that the food was misbranded within the meaning of 21 U. S. C. 343 (g) (1) in that it purported to be 'enriched farina,' a food for which a definition and standard of identity has been prescribed by regulation 21 C. F. R., Cum. Supp., 15.140, promulgated pursuant to 21 U. S. C. 341.

"It has been stipulated by the parties that the farina in question did not meet the standards set out in the regulation for 'enriched farina,' but it is contended by counsel for the defendant that the label did not represent the farina to be *en*riched, but merely rich in its natural state and that therefore the label was not misleading. With this contention we are not in accord.

"The legislative history of the present statute plainly shows that its purpose was not confined to a requirement of informative and truthful labeling. Rather, it was the purpose to authorize the Administrator to promulgate definitions and standards of identity under which the integrity of food products can be effectively maintained. *United States* v. *Quaker Oats*, 318 U. S. 218, *63* S. Ct. *589*, *87* L. Ed. *724*. And there is no reason to construe the regulation involved in this case in such a narrow manner as to defeat the purposes of the act merely because this case is a criminal prosecution. The Supreme Court pointed out the pitfalls of such construction in the *Kordel* case with the following statement:

> It would take an extremely narrow reading of the act to hold that these drugs were not misbranded. A criminal law is not to be read expansively to include what is not plainly embraced within the language of the Statute (United States v. Resnick, 229 U. S. 207; Kraus & Bros. v. United States, 327 U. S. 615, 621–622), since the purpose fairly to apprise men of the boundaries of the prohibited action would then be defeated. United States v. Sullivan, 332 U. S. 689, 693; Winters v. New York, 333 U. S. 507. But there is no canon against using common sense in reading a criminal law, so that strained and technical constructions do not defeat its purpose by creating exceptions from or loopholes in it. See Roshen v. Ward, 279 U. S. 337, 339. [United States v. Kordel, 335 U. S. 345.]

For a long time courts have followed the doctrine that statutes intended to protect the public health should be given a liberal construction because the

public and social purposes served by such legislation greatly exceed the inconvenience and hardship imposed upon the individual. And this is true despite the fact that very often such statutes are primarily penal in nature. See *Sutherland*, Statutory Construction, Vol. III, Sec. 7202; *United States* v. *Kordel*, C. C. A. 7th, 1947, 164 F. (2d) 913, aff'd. 335 U. S. 345.

"The distinction between 'vitamin rich farina' and 'enriched farina' is a very thin line to draw if the consumer is to receive any protection by virtue of the regulation. And protection of the consumer is the ultimate purpose of the act. *United States* v. *Sullivan*, 332 U. S. 689, 68 S. Ct. 331, 92 L. Ed. 297. That a label 'Vitamin Rich Farina' on cartons containing ordinary farina would be misleading to the consumer seems apparent from the Supreme Court's discussion of farina in the *Quaker Oats* case, supra. The Court in upholding the validity of regulation 15.140 made these comments:

> Farina, which is a highly refined wheat product resembling flour but with larger particles, is used in macaroni, as a breakfast food, and extensively as a cereal food for children. It is in many cases the only cereal consumed by them during a period of their growth. Both farina and flour are manufactured by grinding the whole wheat and discarding its bran coat and germ. This process removes from the milled product that part of the wheat which is richest in vitamins and minerals, particularly vitamin B_1, riboflavin, nicotinic acid and iron, valuable food elements which are often lacking in the diet of low income groups. In their diet, especially in the case of children, there is also frequently a deficiency of calcium and vitamin D, which are elements not present in wheat in significant quantities.
>
> In recent years millers of wheat have placed on the market flours and farinas which have been enriched by the adoption of added vitamins and minerals. The composition of these enriched products varies widely. There was testimony of weight before the Administrator, principally by expert nutritionists, that such products because of the variety and combination of added ingredients, are widely variable in nutritional value; and that consumers generally lack knowledge of the relative value of such ingredients and combinations of them.
>
> These witnesses also testified, as did representatives of consumer organizations which had made special studies of the problems of food standardization, that the number, variety and varying combinations of the added ingredients tend to confuse the large number of consumers who desire to purchase vitamin enriched wheat food products but who lack the knowledge essential to discriminating purchase of them; that because of this lack of knowledge they are subject to exploitation by the sale of foods described as "enriched," but of whose inferior or unsuitable quality they are not informed. Accordingly a large number of witnesses recommended the adoption of definitions and standard for "enriched" wheat products which would ensure fairly complete satisfaction of dietary needs, and a somewhat lesser number recommended the disallowance, as optional ingredients in the standards for unenriched wheat products, of individual vitamins and minerals whose addition would suggest to consumers an adequacy for dietary needs not in fact supplied.

Thus we note that in the milling process farina loses most of its rich vitamin content and there is little room for the contention that farina in its natural state is 'vitamin rich.' On the contrary, the Administrator found it to be vitamin poor and for this very reason issued the regulation suggested. The only way in which farina can be made rich is by the addition of certain essential vitamins and this is what the Administrator termed 'enriched farina,' a food for which he established a standard of identity.

"With the background of this regulation in mind, it is clear that Omar 'Vitamin Rich Farina' is misbranded in that it is misleading because farina is not in fact vitamin rich and because Omar 'Vitamin Rich Farina' purports to be a food for which the Administrator has prescribed a standard of identity.

"The Court therefore finds the defendant Omar, Incorporated, guilty of a technical violation of the statute on both counts alleged in the information. Since the evidence shows that the acts complained of in the complaint were done on behalf of the defendant corporation by agents of the corporation other than the defendant Roth, the court finds the defendant Roth not guilty of either count. *United States* v. *Dotterweich*, 320 U. S. 277, 64 S. Ct. 134, 88 L. Ed. 48.

"It appears from the evidence that the defendant Omar, Incorporated, had been using the label in question long before the Administrator adopted regulation 15.140; that violation occurred almost automatically upon the adoption of the regulation and prevention of such violation was beyond the defendant corporation's immediate control. Long before this prosecution was commenced, the defendant made every effort to conform to the Administrator's regulation. At a hearing before the Administrator in Kansas City, the president of the defendant corporation by showing made to the Administrator set forth that the defendant did not realize that the terms 'Vitamin Rich' were synonymous with the term 'enriched,' but agreed to discontinue use of the particular label involved in this prosecution as soon as the present supply on

hand was disposed of. Since the Administrator was not satisfied with this, the president of the defendant corporation returned to Omaha and ordered all existing stocks of the questionable carton destroyed. All in all, over 120,000 cartons were destroyed. On May 9, 1945, a local agent of the Administrator came to the company's mill and there found the company's employees cutting and dumping the farina packages. It was not until a year after this incident that any action was taken. On July 6, 1946, this prosecution was commenced.

"The court feels that the policies and purposes of the Act were properly effectuated when the defendant voluntarily destroyed the illicit containers. It has suffered ample pecuniary damage already and there is no question of its good faith attempt to comply with the Act.

"The court therefore finds the defendant Omar, Incorporated, guilty as charged in the information. The sentence will be the imposition of a fine of $12.50 on each count, or a total of $25.00 on both counts, together with the costs of this prosecution.

"The defendant Roth is found not guilty and he is therefore discharged and released."

16660. Adulteration of rice. U. S. v. 55 Bags * * *. (F. D. C. No. 29547 Sample No. 34358–K.)

LIBEL FILED: August 26, 1950, District of Nevada.

ALLEGED SHIPMENT: On or about October 12, 1949, from Houston, Tex.

PRODUCT: 55 100-pound bags of rice at Reno, Nev., in possession of Lindley & Co.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta and rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: September 22, 1950. Default decree of condemnation and destruction.

16661. Adulteration of brewers rice. U. S. v. 1,000 Bags * * *. (F. D. C. No. 29542. Sample No. 69603–K.)

LIBEL FILED: August 24, 1950, Western District of New York.

ALLEGED SHIPMENT: On or about July 24, 1950, from West Sacramento, Calif., by the Rice Growers Assn. of California.

PRODUCT: 1,000 100-pound bags of brewers rice at Buffalo, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects and insect fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: September 21, 1950. Willich & Co., New York, N. Y., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for denaturing, under the supervision of the Federal Security Agency.

CHOCOLATE AND CONFECTIONERY

16662. Adulteration of chocolate coating. U. S. v. 129 Bales * * *. (F. D. C. No. 29505. Sample No. 85532–K.)

LIBEL FILED: July 29, 1950, District of Minnesota.

ALLEGED SHIPMENT: On or about May 26 and 31, 1950, from Elizabethtown, Pa.

PRODUCT: 129 200-pound bales of chocolate coating at Minneapolis, Minn., in possession of the Security Warehouse Co.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs and rodent-gnawed chocolate; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: September 8, 1950. The Klein Chocolate Co., Elizabethtown, Pa., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reprocessing, under the supervision of the Federal Security Agency. The reprocessing operations consisted of cutting and scraping the unfit portion from the chocolate, with the result that approximately 60 pounds of unfit chocolate were destroyed.

16663. Adulteration of candy. U. S. v. Harry Wartnick. Plea of nolo contendere. Fine, $250. (F. D. C. No. 24811. Sample Nos. 71140–H, 71325–H.)

INFORMATION FILED: District of Hawaii, against Harry Wartnick, Honolulu, T. H. The date of filing is unknown.

ALLEGED SHIPMENT: On or about March 28, 1947, from the Territory of Hawaii into the State of California.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insects and insect excreta.

DISPOSITION: March 6, 1950. The case having been transferred for plea and final disposition to the United States District Court for the Southern District of California, and the defendant having entered a plea of nolo contendere, the court imposed a fine of $250.

16664. Adulteration of candy. U. S. v. 20 Boxes * * *. (F. D. C. No. 29692. Sample No. 86145–K.)

LIBEL FILED: August 21, 1950, District of Arizona.

ALLEGED SHIPMENT: On or about May 2, 1950, from Fort Worth, Tex.

PRODUCT: 20 boxes, each containing 24 bars, of candy at Phoenix, Ariz.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of live insects. It was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: November 2, 1950. Default decree of condemnation and destruction.

16665. Adulteration and misbranding of Coconut Crisp. U. S. v. 1,402 Cases * * *. (F. D. C. No. 29712. Sample No. 35470–K.)

LIBEL FILED: August 29, 1950, Northern District of California.

ALLEGED SHIPMENT: On or about April 21 and 28, 1950, by Confections, Inc., from Chicago, Ill.

PRODUCT: 1,402 cases, each containing 48 2½-ounce packages, of Coconut Crisp at San Francisco, Calif. Examination showed that the product consisted essentially of caramel-coated popcorn containing a small amount of coconut and artificial coconut flavor.

NATURE OF CHARGE: Adulteration, Section 402 (b) (4), artificial flavor had been added to the article and mixed and packed with it so as to make it appear better or of greater value than it was.

Misbranding, Section 403 (a), the name "Coconut Crisp," together with a picture of a coconut and coconut palm trees appearing on the retail package and on the display frame and the statement "Crispy, crunchy coconut in an exotic flavor blend" appearing on the display frame accompanying the article, were false and misleading as applied to a product containing only a small amount of coconut and artificial coconut flavor; and, Section 403 (f), the ingredient statement appearing on the retail package label was not prominently placed thereon with such conspicuousness (as compared with other words, statements, and designs) as to render it likely to be read by the ordinary individual under customary conditions of purchase and use.

DISPOSITION: September 22, 1950. Default decree of condemnation and destruction.

DAIRY PRODUCTS

BUTTER

The following cases report actions involving butter that consisted in whole or in part of filthy or decomposed substances, **Nos. 16666 and 16667**; that was below the legal standard for milk fat content, **Nos. 16667 to 16671**; and that was short of the declared weight, **No. 16672**.

16666. Adulteration of butter. U. S. v. 23 Cubes, etc. (2,730 pounds, total). (F. D. C. No. 29819. Sample No. 81455–K.)

LIBEL FILED: September 12, 1950, Eastern District of Pennsylvania; amended libel filed on the same date.

ALLEGED SHIPMENT: On or about September 1, 1950, by the Richmond Cooperative Creamery from Richmond, Minn.

PRODUCT: 42 65-pound cubes of butter at Philadelphia, Pa.

LABEL, IN PART: "Butter Distributed by C. G. Heyd and Co., Philadelphia, Pa."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance and was prepared from filthy cream.

DISPOSITION: September 21, 1950. C. G. Heyd & Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for denaturing, under the supervision of the Federal Security Agency.

16667. Adulteration of butter. U. S. v. 32 Cases * * *. (F. D. C. No. 29759. Sample No. 72868–K.)

LIBEL FILED: August 22, 1950, Southern District of Ohio.

ALLEGED SHIPMENT: On or about August 11, 1950, by Dearmin & Co., from Odon, Ind.

PRODUCT: 32 cases, each containing 63 pounds, of butter at Cincinnati, Ohio.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in part of a decomposed substance since it was made from decomposed cream, as evidenced by a high mold mycelia count, and it contained filth in the form of insects, insect fragments, including the fragments of flies, and rodent

hair fragments, cow hair fragments, cat hair fragments, and fly eggs; and, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: September 15, 1950. Default decree of condemnation. The court ordered that the product be sold after it had been denatured, so that it could not be used for human consumption. The product was sold for conversion into salvage fat.

16668. Adulteration of butter. U. S. v. 63 Boxes (4,095 pounds) * * *. (F. D. C. No. 29822. Sample No. 74712–K.)

LIBEL FILED: September 5, 1950, Southern District of New York.

ALLEGED SHIPMENT: On or about August 19, 1950, by the Exira Creamery Co., from Exira, Iowa.

PRODUCT: 63 boxes, each containing 65 pounds, of butter, at New York, N. Y.

LABEL, IN PART: "Butter Distributed by J. R. Kramer Inc., New York, N. Y."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less that 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: September 25, 1950. The Exira Creamery Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond for reworking, under the supervision of the Federal Security Agency, so that it would contain not less than 80 percent of milk fat.

16669. Adulteration of butter. U. S. v. 8 Boxes (528 pounds) * * *. (F. D. C. No. 29823. Sample No. 76092–K.)

LIBEL FILED: August 24, 1950, Northern District of Iowa.

ALLEGED SHIPMENT: On or about August 14, 1950, by the Nerstrand Cooperative Creamery Co., from Owatonna, Minn.

PRODUCT: 8 66-pound boxes of butter at Webster City, Iowa.

LABEL, IN PART: "Creamery Butter Distributed by Fairmont Foods Company General Offices Omaha, Nebr."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product which contained less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: September 26, 1950. The Nerstrand Cooperative Creamery Co., Nerstrand, Minn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be reprocessed and brought into compliance with the law, under the supervision of the Federal Security Agency.

16670. Adulteration of butter. U. S. v. 132 Cartons (8,448 pounds) * * *. (F. D. C. No. 29757. Sample Nos. 59405–K, 59410–K.)

LIBEL FILED: August 15, 1950, Northern District of Illinois.

ALLEGED SHIPMENT: On or about June 19, 1950, by the Peter Fox Sons Co., from Watertown, S. Dak.

PRODUCT: 132 64-pound cartons of butter at Chicago, Ill.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: September 8, 1950. Fox DeLuxe Foods, Inc., Chicago, Ill., claimant, having consented to the entry of a decree, judgment of condemnation

was entered and the court ordered that the product be released under bond for reworking, under the supervision of the Federal Security Agency.

16671. Adulteration of butter. U. S. v. 10 Cartons (680 pounds) * * *. (F. D. C. No. 29825. Sample Nos. 78728–K, 78729–K.)

LIBEL FILED: August 30, 1950, Eastern District of Washington.

ALLEGED SHIPMENT: On or about August 16, 1950, by the Idaho Dairy Products Co., from Moscow, Idaho.

PRODUCT: 10 cartons, each carton containing 68 pounds, of butter at Spokane, Wash.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: September 6, 1950. The Idaho Dairy Products Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reworking, under the supervision of the Federal Security Agency, so that it would contain at least 80 percent of milk fat.

16672. Misbranding of butter. U. S. v. 156 Pounds * * *. (F. D. C. No. 29761. Sample Nos. 84921–K, 84922–K.)

LIBEL FILED: August 4, 1950, Southern District of Ohio.

ALLEGED SHIPMENT: On or about July 27, 1950, by the Napoleon Creamery, from Napoleon, Ind.

PRODUCT: 127 rolls and 29 prints of butter at Cincinnati, Ohio.

LABEL, IN PART: "Napoleon Creamery Butter 1 Lb. Net Weight Manufactured by Napoleon Creamery Napoleon, Ind." and "The C. Eberle Sons Co. Cincinnati, Ohio One Pound Net Spring Dale Brand Creamery Butter."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the label of the article did not bear an accurate statement of the quantity of the contents. (The article was short of the declared weight.)

DISPOSITION: August 10, 1950. The Napoleon Creamery, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond for reworking and repacking, to bring it into compliance with the law, under the supervision of the Federal Security Agency.

CHEESE

16673. Adulteration of Cheddar cheese. U. S. v. Farmer City Cheese Co. Plea of guilty. Judgment against defendant in sum of $300 in lieu of fine and costs. (F. D. C. No. 26716. Sample No. 27339–K.)

INFORMATION FILED: June 21, 1949, Southern District of Illinois, against the Farmer City Cheese Co., a partnership, Farmer City, Ill.

ALLEGED VIOLATION: On or about December 2, 1947, the defendant gave to a firm engaged in the business of shipping cheese in interstate commerce at Chicago, Ill., a guaranty to the effect that all cheese sold or delivered to the holder of the guaranty would be neither adulterated nor misbranded under the law; and on or about October 26, 1948, the defendant sold and delivered under the guaranty, at Farmer City, Ill., a quantity of Cheddar cheese that was adulterated.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insect fragments, rodent hair fragments, and plant fragments.

DISPOSITION: October 31, 1950. A plea of guilty having been entered, the court entered judgment against the defendant in the sum of $300 in lieu of fine and costs.

EGGS

16674. Misbranding of eggs. U. S. v. 32 Cartons * * *. Consent decree of condemnation and destruction. Motion to adjudge Israel Korol in contempt for illegal disposition of eggs under Federal seizure. Defendant adjudged guilty; fine, $25. (F. D. C. No. 29383. Sample No. 3389–K.)

LIBEL FILED: June 30, 1950, District of Columbia.

PRODUCT: 32 cartons each containing 1 dozen eggs in interstate commerce in the District of Columbia, in possession of the Korol Egg Co., Israel Korol, owner.

RESULTS OF INVESTIGATION: The Korol Egg Company, Washington, D. C., packed and labeled the eggs.

NATURE OF CHARGE: Misbranding, Section 403 (a), the following label statements were false and misleading since 97.9 percent of the eggs were below Grade A and since the eggs were not graded by an official Federal or State grader: "* * * U. S. Grade A * * * Certificate of Quality Issued By Authority of the U. S. and Va. Departments of Agriculture. This is to certify that the eggs in this package were graded by an official Federal-State Grader and that the date of grading and number of the grading certificate are stamped on seal and that the quality at time of grading was U. S. Grade A Large."

Further misbranding, Section 403 (e) (1), the article failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor.

DISPOSITION: August 15, 1950. Consent decree of condemnation and destruction. On August 17, 1950, when the United States marshal attempted to locate the eggs for the purpose of complying with the order of destruction, Mr. Korol informed him that he had destroyed the eggs. On September 29, 1950, the United States attorney filed a motion to adjudge Israel Korol in contempt of court for illegal disposition of property under Federal seizure. On October 19, 1950, Israel Korol was adjudged in contempt of court and was fined $25.

16675. Adulteration of frozen eggs. U. S. v. 52 Cans, etc. (F. D. C. No. 29680. Sample Nos. 3398–K to 3400–K, incl.)

LIBEL FILED: August 8, 1950, District of Columbia.

PRODUCT: 72 unlabeled second-hand cans, each containing 30 pounds, of frozen eggs in interstate commerce in the District of Columbia, held in storage to the account of Nathan Korol, Washington, D. C.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed eggs.

DISPOSITION: October 20, 1950. Default decree of condemnation and forfeiture. The court ordered that the product be delivered to a public institution, for use in cooked food for animals.

16676. Adulteration of frozen eggs. U. S. v. 813 Cans * * *. (F. D. C. No. 29679. Sample Nos. 3397–K, 82302–K to 82305–K, incl.)

LIBEL FILED: August 8, 1950, District of Columbia.

PRODUCT: 813 unlabeled second-hand cans, each containing 30 pounds, of frozen eggs in interstate commerce in the District of Columbia, held in storage to the account of William Parnes, Washington, D. C.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed eggs.

DISPOSITION: October 20, 1950. Default decree of condemnation and forfeiture. The court ordered that the product be delivered to a public institution, for use in cooked foods for animals.

16677. Adulteration of frozen eggs. U. S. v. 277 Cans * * *. (F. D. C. No. 28626. Sample No. 15880–K.)

LIBEL FILED: January 13, 1950, Northern District of Illinois.

ALLEGED SHIPMENT: On or about August 22, 1949, by the Bauer Poultry Co., from Kansas City, Kans.

PRODUCT: 277 30-pound cans of frozen eggs at Chicago, Ill.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

DISPOSITION: February 27, 1950. The Bauer Poultry Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation and destruction of the unfit portion under the supervision of the Federal Security Agency. Segregation operations resulted in the destruction of 101 cans.

FISH AND SHELLFISH

16678. Adulteration of frozen cod fillets. U. S. v. 25 Boxes, etc. (F. D. C. No. 29512. Sample Nos. 30478–K, 30479–K.)

LIBEL FILED: August 1, 1950, Southern District of California.

ALLEGED SHIPMENT: On or about July 14, 1950, by the Dahl Fish Co., from Bellingham, Wash.

PRODUCT: 35 25-pound boxes of frozen cod fillets at San Diego, Calif.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish.

DISPOSITION: September 27, 1950. Default decree of condemnation. The court ordered that the product be delivered to a State agency, for use as fish food.

16679. Adulteration of frozen ocean perch fillets. U. S. v. 940 Boxes * * *. (F. D. C. No. 29534. Sample No. 58929–K.)

LIBEL FILED: August 23, 1950, Northern District of Illinois.

ALLEGED SHIPMENT: On or about August 5, 1950, by Morris Fisheries, Inc., from Gloucester, Mass.

PRODUCT: 940 boxes, each containing 10 pounds, of frozen ocean perch fillets at Chicago, Ill.

LABEL, IN PART: "Davis Bros. Fresh Frozen Ocean Perch Fillets Packed By Davis Bros. Fisheries Co., Inc. Gloucester, Mass."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

DISPOSITION: November 8, 1950. Default decree of condemnation and destruction.

16680. Adulteration of frozen whiting. U. S. v. 250 Boxes * * *. (F. D. C. No. 29206. Sample No. 72302–K.)

LIBEL FILED: May 3, 1950, Eastern District of Tennessee.

ALLEGED SHIPMENT: On or about April 5, 1950, by Morris Fisheries, Inc., from Chicago, Ill.

PRODUCT: 250 15-pound boxes of frozen whiting at Chattanooga, Tenn.

LABEL, IN PART: "H & G Scaled Whiting Booth Fisheries Corp., Boston, Mass."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish.

DISPOSITION: June 19, 1950. Default decree of condemnation and destruction.

16681. Adulteration of canned oysters. U. S. v. 289 Cases * * *. (F. D. C. No. 28373. Sample No. 50933–K.)

LIBEL FILED: November 23, 1949, District of Oregon.

ALLEGED SHIPMENT: On or about August 31, 1949, by the Southland Canning & Packing Co., from New Orleans, La.

PRODUCT: 289 cases, each containing 48 cans, of oysters at Portland, Oreg.

LABEL, IN PART: (Can) "Gulf Belle Brand Cove Oysters Drained Weight 4⅔ Ozs."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed oysters.

DISPOSITION: March 3, 1950. Decree modified July 3, 1950. The Aubin Buquet Canning Co., Houma, La., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation and reprocessing of the unfit portion, under the supervision of the Food and Drug Administration. 196¼ cases were seized, and these were separated according to codes, resulting in the release of the fit codes consisting of 152 cases and 35 cans. The cans in the remaining codes were opened, and the good oysters were recanned. 35 cases and 25 cans were recanned and labeled "Reprocessed," and the remainder were destroyed.

16682. Adulteration of canned shrimp. U. S. v. 156 Cases * * *. (F. D. C. No. 28427. Sample No. 29093–K.)

LIBEL FILED: December 6, 1949, District of Utah.

ALLEGED SHIPMENT: On or about October 31, 1949, by the Anticich Canning Co., from Biloxi, Miss.

PRODUCT: 156 cases, each containing 48 5-ounce cans, of shrimp at Salt Lake City, Utah.

LABEL, IN PART: (Cans) "American Beauty Medium Wet Pack Shrimp Drained Wt. 5 Oz."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed shrimp.

DISPOSITION: July 21, 1950. The decree was amended on November 2, 1950. The Anticich Canning Co., Biloxi, Miss., claimant, having consented to the entry of a decree, judgment was entered finding 89 cases not adulterated and ordering them released. The remaining cases were condemned and ordered released under bond to be disposed of in compliance with the law. One case and 37 cans were found good and were released, and the remainder were destroyed.

FRUITS AND VEGETABLES*

FRESH FRUIT

16683. Adulteration of blueberries. U. S. v. 19 Crates * * *. (F. D. C. No. 29754. Sample No. 73339–K.)

LIBEL FILED: August 18, 1950, Southern District of New York.

ALLEGED SHIPMENT: On or about August 16, 1950, by H. E. Rowell of East Union, Maine, from Rockland, Maine.

PRODUCT: 19 crates, each containing 24 quarts, of blueberries at New York, N. Y.

LABEL, IN PART: "State of Maine Fancy Blueberries Packed by Emil Rivers Rockland, Maine."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance. (Analysis disclosed that the article was infested with maggots.)

DISPOSITION: August 24, 1950. Default decree of condemnation and destruction.

16684. Adulteration of blueberries. U. S. v. 3 Crates * * *. (F. D. C. No. 29755. Sample No. 80107–K.)

LIBEL FILED: August 8, 1950, District of Massachusetts.

ALLEGED SHIPMENT: On or about August 8, 1950, by Geraldine Tufts, from Union, N. H.

PRODUCT: 3 crates, each containing 24 1-quart boxes, of blueberries at Boston, Mass.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance. (Examination disclosed that the article contained maggots.)

DISPOSITION: September 18, 1950. Default decree of condemnation and destruction.

FROZEN FRUIT

16685. Adulteration of frozen strawberries. U. S. v. 22 Barrels * * *. (F. D. C. No. 29544. Sample Nos. 79063–K to 79066–K, incl.)

LIBEL FILED: August 25, 1950, District of Oregon.

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* See also Nos. 16651–16654.

ALLEGED SHIPMENT: On or about June 24 and 27, 1950, by the Cloverdale Co-op. Berry Assn., from Kalama, Wash.

PRODUCT: 22 barrels, each containing 380 pounds, of frozen strawberries at Portland, Oreg.

LABEL, IN PART: "Cloverdale Co-op Berry Assn Marshall Strawberries Straight Juice Kalama, Wash."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of rotten strawberries.

DISPOSITION: November 2, 1950. Default decree of condemnation and destruction.

VEGETABLES AND VEGETABLE PRODUCTS

16686. Adulteration and misbranding of canned corn. U. S. v. 17 Cases, etc. (and 1 other seizure action). (F. D. C. Nos. 29400, 29484. Sample Nos. 51495–K to 51497–K, incl., 72513–K.)

LIBELS FILED: July 10 and 18, 1950, Southern District of Indiana.

ALLEGED SHIPMENT: On or about March 24 and 28, and April 26, 1950, by Ray W. Thomas, from Onarga, Ill.

PRODUCT: Corn. 166 cases, each containing 48 11-ounce cans; 599 cases, each containing 48 unlabeled No. 1 cans; and 199 cases, each containing 24 unlabeled No. 303 cans, at Eaton, Ind.

LABEL, IN PART: (Portion) "Faultless Brand * * * Cream Style White Sweet Corn [or "Uncle William Cream Style White Sweet Corn"] Distributed by Sales Producers Associates, Inc., Chicago, Illinois" or "Uncle William Cream Style Country Gentleman White Sugar Corn * * * Distributed by Marshall Canning Co., General Office Marshalltown, Iowa."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

Misbranding, Section 403 (g) (1), the product fell below the standard of identity for canned corn since it had not been so processed by heat as to prevent spoilage; and (labeled portion, 166 cases), Section 403 (e) (1), the label failed to bear the name and place of business of the manufacturer, packer, or distributor, since the name and address appearing on the label was not that of the actual distributor.

DISPOSITION: August 29, 1950. Default decrees of condemnation and destruction.

16687. Adulteration and misbranding of canned corn. U. S. v. 300 Cases * * *. (F. D. C. No. 29524. Sample No. 72818–K.)

LIBEL FILED: August 14, 1950, Southern District of Ohio.

ALLEGED SHIPMENT: On or about May 26, 1950, by Ray W. Thomas, from Onarga, Ill.

PRODUCT: 300 cases, each containing 48 11-ounce cans, of corn at Piqua, Ohio.

LABEL, IN PART: "Uncle William Cream Style White Sweet Corn," "Cupboard Brand Country Gentleman White Sweet Corn," or "Faultless Brand Cream Style White Sweet Corn."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

Misbranding, Section 403 (g) (1), the product fell below the definition and standard of identity for canned corn since it had not been processed by heat so as to prevent spoilage.

DISPOSITION: November 8, 1950. Default decree of condemnation and destruction.

16688. Adulteration and misbranding of canned corn. U. S. v. 187 Cases, etc. (F. D. C. No. 29525. Sample Nos. 39994–K, 42521–K, 42522–K.)

LIBEL FILED: August 18, 1950, Northern District of Indiana.

ALLEGED SHIPMENT: On or about March 4, 15, and 27, 1950, by Lansing B. Warner, Inc., from Onarga, Ill.

PRODUCT: 187 cases, each containing 24 1-pound, 4-ounce cans, and 101 cases, each containing 48 11-ounce cans, of corn at Bluffton, Ind.

LABEL, IN PART: "Pure Food Brand * * * Cream Style White Sugar Corn" and "Mississinewa Brand Cream Style Golden Sweet Corn."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for canned corn since it had not been processed by heat so as to prevent spoilage.

DISPOSITION: October 19, 1950. Default decree of condemnation and destruction.

16689. Adulteration of canned corn. U. S. v. 40 Cases * * *. (F. D. C. No. 29580. Sample No. 78663–K.)

LIBEL FILED: September 14, 1950, District of Montana.

ALLEGED SHIPMENT: On or about June 19, 1950, by the F & M Packing Co., from Traverse City, Mich.

PRODUCT: 40 cases, each containing 24 1-pound, 1-ounce cans of corn at Butte, Mont.

LABEL, IN PART: "Garden Side Brand Net Weight 1 Lb. 1 Oz. Cream Style Golden Corn."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of worm parts.

DISPOSITION: November 10, 1950. Default decree of condemnation. The court ordered that the product be denatured and turned over to a charitable institution, for use as animal feed.

16690. Adulteration of corn husks. U. S. v. 100 Bales * * *. (F. D. C. No. 29539. Sample No. 77610–K.)

LIBEL FILED: August 22, 1950, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about August 5, 1949, and February 6 and March 24, 1950, by the Louisiana Fish & Oyster Co., from Shreveport, La.

PRODUCT: 100 50-pound bales of corn husks at St. Louis, Mo.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects and insect excreta.

DISPOSITION: October 18, 1950. Default decree of condemnation and destruction.

NUTS

16691. Adulteration of brazil nuts. U. S. v. 94 Bags * * *. (F. D. C. No. 29509. Sample No. 85533–K.)

LIBEL FILED: August 1, 1950, District of Minnesota.

ALLEGED SHIPMENT: On or about December 9, 1949, from New York, N. Y.

PRODUCT: 94 100-pound bags of brazil nuts at Minneapolis, Minn., in possession of the Security Warehouse Co.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent-gnawed nuts and rodent pellets; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: September 8, 1950. The Tew-Harper Co., Minneapolis, Minn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation and reprocessing, under the supervision of the Federal Security Agency. The segregation operations resulted in the release of 81 bags of the product as fit for human consumption; the remaining 13 bags of the product were reconditioned by washing; and 10 pounds of nuts, which were found to be rodent-damaged or otherwise defective, were destroyed.

16692. Adulteration of cashew nuts. U. S. v. 52 Cases * * *. (F. D. C. No. 29268. Sample Nos. 35144–K, 35145–K.)

LIBEL FILED: June 12, 1950, Northern District of California.

ALLEGED SHIPMENT: On or about March 16, 1950, by Pan American Food Co., Inc., from New York, N. Y.

PRODUCT: 52 cases, each containing 2 25-pound tins, of cashew nuts at San Francisco, Calif.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect-infested cashews.

DISPOSITION: July 18, 1950. The Sun Crown Food Corp., San Francisco, Calif., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. The unfit portion was segregated, resulting in the salvage of 766 pounds of cashew nuts out of approximately 900 pounds seized. The rejects were destroyed.

16693. Adulteration of pecan meats. U. S. v. 8 Cases * * *. (F. D. C. No. 29517. Sample No. 78653–K.)

LIBEL FILED: August 8, 1950, District of Montana.

ALLEGED SHIPMENT: On or about June 23, 1950, by Associated Food Stores, Inc., from Salt Lake City, Utah.

PRODUCT: 8 cases, each containing 24 8-ounce packages, of pecan meats at Helena, Mont.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects.

DISPOSITION: October 4, 1950. Default decree of condemnation. The court ordered that the product be denatured and delivered to a State agency for use as animal feed.

16694. Adulteration of walnut meats. U. S. v. 5 Cases * * *. (F. D. C. No 29569. Sample No. 68460–K.)

LIBEL FILED: September 5, 1950, Western District of Washington.

ALLEGED SHIPMENT: On or about August 25, 1950, by the Tigard Nut Packing Co., from Tigard, Oreg.

PRODUCT: 5 25-pound cases of walnut meats at Seattle, Wash.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect excreta and webbing.

DISPOSITION: September 29, 1950. Default decree of condemnation and destruction.

POULTRY

16695. Adulteration of dressed turkeys. U. S. v. Altura Rex Turkeys, Inc., and Edward J. Simon. Pleas of nolo contendere. Each defendant fined $500. (F. D. C. No. 29161. Sample Nos. 60016–K to 60020–K, incl.)

INFORMATION FILED: On or about June 26, 1950, District of Minnesota, against Altura Rex Turkeys, Inc., Altura, Minn., and Edward J. Simon, secretary-treasurer of the corporation.

ALLEGED SHIPMENT: On or about September 30 and October 3, 12, and 14, 1949, from the State of Minnesota into the State of Illinois.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in part of a decomposed substance; and, Section 402 (a) (5), the article was in part the product of a diseased animal.

DISPOSITION: October 31, 1950. Pleas of nolo contendere having been entered, the court fined each defendant $500.

16696. Adulteration of dressed chickens. U. S. v. Frank J. Peterson (F. J. Peterson Co.). Plea of nolo contendere. Fine of $150, plus costs. (F. D. C. No. 29147. Sample No. 43320–K.)

INFORMATION FILED: August 23, 1950, Northern District of Iowa, against Frank J. Peterson, trading as the F. J. Peterson Co., Maquoketa, Iowa.

ALLEGED SHIPMENT: On or about November 16, 1949, from the State of Iowa into the State of Illinois.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of mouse pellets; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: August 23, 1950. A plea of nolo contendere having been entered the court imposed a fine of $150, plus costs.

16697. Adulteration of dressed poultry. U. S. v. 8 Crates * * *. (F. D. C. No. 29686. Sample No. 73129–K.)

LIBEL FILED: August 14, 1950, Southern District of New York.

ALLEGED SHIPMENT: On or about August 1, 1950, by the Millsboro Poultry Co., from Millsboro, Del.

PRODUCT: 8 crates, containing a total of 500 pounds, of dressed poultry at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed and filthy substance by reason of the presence of fecal and other extraneous matter and decomposed poultry; and, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal.

DISPOSITION: September 5, 1950. Default decree of condemnation and destruction.

SPICES, FLAVORS, AND SEASONING MATERIALS

16698. Adulteration and misbranding of hollandaise sauce. U. S. v. 53 Cases * * *. (F. D. C. No. 29695. Sample No. 74883–K.)

LIBEL FILED: August 23, 1950. Southern District of New York.

ALLEGED SHIPMENT: On or about May 24 and July 19, 1950, by the Creole Aperitif Kitchens, Baltimore, Md.

PRODUCT: 53 cases, each containing 24 bottles, of hollandaise sauce at New York, N. Y. Analysis showed that the product contained no butter, but that it did contain soybean oil and an artificial, yellow coal-tar color. Butter should be the sole fatty ingredient of hollandaise sauce.

LABEL, IN PART: (Bottle) "Cresca Hollandaise Sauce * * * Made from vegetable oil, eggs, lemon juice, vinegar, sugar, spices, U. S. Cert. Color added Contents 8 Fluid Ozs."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, butter, had been in whole or in part omitted; and, Section 402 (b) (3), inferiority had been concealed by the addition of a yellow coal-tar color.

Misbranding, Section 403 (a), the designation "Hollandaise Sauce" was false and misleading since the product contained no butter.

DISPOSITION: September 15, 1950. Default decree of condemnation. The court ordered that the product be delivered to various charitable institutions.

16699. Adulteration of marjoram leaves. U. S. v. 103 Bags * * *. (F. D. C. No. 29669. Sample Nos. 57454–K, 57460–K.)

LIBEL FILED: August 3, 1950, Southern District of New York.

ALLEGED SHIPMENT: On or about March 22, 1950, by Centrokomise-Czechoslovak Import & Export of Foodstuffs, Ltd., from Prague, Czechoslovakia.

PRODUCT: 103 bags, each containing 131 pounds, of marjoram leaves at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), earthy material or soil had been substituted in part for marjoram leaves.

DISPOSITION: August 29, 1950. Louis Furth, Inc., New York, N. Y., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the purpose of cleaning, under the supervision of the Federal Security Agency.

16700. Adulteration of Paprika. U. S. v. 43 Sacks * * *. (F. D. C. No. 28972. Sample No. 35358–K.)

LIBEL FILED: April 17, 1950, Northern District of California.

ALLEGED SHIPMENT: On or about March 27, 1950, by the Crescent Mfg. Co., from Seattle, Wash.

PRODUCT: 43 110-pound sacks of paprika at San Francisco, Calif.

LABEL, IN PART: "Paprika Vera No. 2 Especial Product Of Chili CIA Industrial Vera, S. A. Illapel Chili."

NATURE OF CHARGE: Adulteration, Section 402 (c), the product contained D&C Red No. 18, a coal-tar color which had not been listed for use in foods in accordance with the regulations of the Federal Security Administrator, and was other than one from a batch that had been certified.

DISPOSITION: October 5, 1950. Default decree of condemnation and destruction.

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[1] (16659) Prosecution contested. Contains opinion of the court.

[2] (16674) Contempt proceedings.

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[1] (16659) Prosecution contested. Contains opinion of the court.
[2] (16674) Contempt proceedings.

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[1] (16659) Prosecution contested. Contains opinion of the court.

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FEDERAL SECURITY AGENCY

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

16701–16750

FOODS

The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Federal Security Agency, and include, where indicated, the results of investigations of the Agency, prior to the institution of the proceedings. Published by direction of the Federal Security Administrator.

PAUL B. DUNBAR, *Commissioner of Food and Drugs.*

WASHINGTON, D. C., *March 15, 1951*

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BEVERAGES AND BEVERAGE MATERIALS *

16701. Adulteration of tomato juice. U. S. v. 500 Cases * * *. (F. D. C. No. 29700. Sample No. 86146–K.)

LIBEL FILED: August 25, 1950, District of Arizona.

ALLEGED SHIPMENT: On or about June 15, 1950, by the Alamo Products Co., from Alamo, Tex.

PRODUCT: 500 cases, each containing 12 1-quart, 14-ounce cans of tomato juice at Phoenix, Ariz.

LABEL, IN PART: (Can) "Taste Tells Brand Tomato Juice."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of maggots and fly eggs.

DISPOSITION: October 26, 1950. Default decree of condemnation and destruction.

16702. Adulteration and misbranding of coffee. U. S. v. James Stanford (Stanford Tea and Coffee Co.). Plea of guilty. Defendant fined $200 and placed on probation for 2 years. (F. D. C. No. 29181. Sample Nos. 63210–K to 63213–K, incl.)

INFORMATION FILED: June 15, 1950, District of Massachusetts, against James Stanford, trading as the Stanford Tea and Coffee Co., Haverhill, Mass.

ALLEGED SHIPMENT: Between the approximate dates of November 29 and December 13, 1949, from the State of Massachusetts into the State of New Hampshire.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a substance containing ground cereal products was substituted for coffee; and, Section 402 (b) (4), ground cereal products had been added to the article and mixed and packed with it so as to reduce its quality and strength.

Misbranding, Section 403 (b), the product consisted of a mixture containing ground cereal products, and it was offered for sale under the name of another food, coffee: Section 403 (e) (1) and (2), it was food in package form and failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the contents; and, Section 403 (i) (2), it was fabricated from two or more ingredients, and the label failed to bear the common or usual name of each ingredient.

DISPOSITION: December 12, 1950. A plea of guilty having been entered, the court fined the defendant $200 and placed him on probation for 2 years.

CEREALS AND CEREAL PRODUCTS

BAKERY PRODUCTS

16703. Adulteration of raisin bread. U. S. v. Pfaff Baking Co., a corporation, and Otto C. Pfaff. Pleas of guilty. Corporation fined $200, plus costs; individual defendant fined $25. (F. D. C. No. 29183. Sample No. 76161–K.)

INFORMATION FILED: June 12, 1950, Northern District of Iowa, against the Pfaff Baking Co., Fort Dodge, Iowa, and Otto C. Pfaff, secretary.

*See also No. 16735.

ALLEGED SHIPMENT: On or about March 3, 1950, from the State of Iowa into the State of Minnesota.

LABEL, IN PART: "Betsy Ross Raisin Bread."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insect fragments, fur hairs, and feather fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: September 22, 1950. Pleas of guilty having been entered, the corporation was fined $200, plus costs, and the individual defendant $25.

16704. Adulteration of butter rolls, doughnuts, and cookies. U. S. v. De An's Better Baking Co., and David T. McNeil. Plea of guilty on behalf of corporation; fine $150. Information dismissed as to David T. McNeil. (F. D. C. No. 29448. Sample Nos. 29583–K to 29585–K, incl., 29587–K.)

INFORMATION FILED: August 21, 1950, District of Utah, against De An's Better Baking Co., Bountiful, Utah, and David T. McNeil, manager for the corporation.

ALLEGED VIOLATION: On or about March 28, 1949, the defendants gave to a firm at Salt Lake City, Utah, which was engaged in the business of shipping bakery products supplied by the defendants in interstate commerce, a guaranty to the effect that all foods, drugs, or other commodities shipped or delivered to the holder of the guaranty would be neither adulterated nor misbranded under the law.

On or about January 19, 1950, the defendants delivered to the holder of the guaranty, at Bountiful, Utah, bakery products that were adulterated.

LABEL, IN PART: (Portion) "De An's Better Rolls," "De An's Better Doughnuts," and "De An's Chocolate De-Lights."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the butter rolls and doughnuts consisted in part of filthy substances by reason of the presence of rodent hairs, and the Chocolate De-Lights (cookies) consisted in part of a filthy substance by reason of the presence of rodent hairs, cat hairs, and hair fragments resembling rodent hairs; and, Section 402 (a) (4), the products had been prepared under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: October 27, 1950. A plea of guilty having been entered on behalf of the corporation, the court imposed a fine of $150 against the corporation. The court on motion by counsel for the defendants, ordered the information dismissed as to David T. McNeil.

16705. Adulteration of cracker meal, graham crackers, and cookies. U. S. v. 198 Dozen Tubes, etc. (F. D. C. No. 29038. Sample Nos. 52246–K to 52249–K, incl.)

LIBEL FILED: April 4, 1950, Southern District of Ohio.

ALLEGED SHIPMENT: On or about March 6, 1950, by Independent Biscuits, Inc., from Davenport, Iowa.

PRODUCT: 198 dozen 5-ounce tubes of cracker meal; 299 cartons, each containing 12 packages, of chocolate graham crackers; 72 cartons, each containing approximately 8½ pounds, of cookies; and 696 bundles, each containing 6 cartons, of honey-flavored graham crackers, at Cincinnati, Ohio.

LABEL, IN PART: (Tube) "Independent Cracker Meal"; (package) "Chocolate Grahams Contents 17 Cookies"; (carton) "Bonnie Marie" and "Shur Good Brand Honey Flavored Grahams Net Weight One Pound."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of insect fragments and rodent hair fragments; and, Section 402 (a) (4), they had been prepared under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: April 24, 1950. Default decree of condemnation. The products were delivered to a public institution, for use as animal feed.

CORN MEAL

16706. Adulteration of corn meal. U. S. v. Davis Milling Co., Inc. Plea of not guilty. Tried to the jury. Verdict of guilty. Motions denied to set aside verdict and for acquittal. Imposition of sentence suspended for 1 year. (F. D. C. No. 23319. Sample No. 65693–H.)

INFORMATION FILED: November 3, 1947, Eastern District of Virginia, against Davis Milling Co., Inc., Norfolk, Va.

ALLEGED SHIPMENT: On or about April 28, 1947, from the State of Virginia into the State of Pennsylvania.

LABEL, IN PART: "2 Lbs. Net * * * Mayo Old Process Meal * * * Davis Milling Co., Inc."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of adult insects, insect larvae, adult insect head, larval heads, larval cast skins, larval head capsules, insects fragments, mites, rodent excreta pellet fragments, and rodent hair fragments.

DISPOSITION: A plea of not guilty, having been entered, the matter came on for trial before the jury on December 1, 1949, and a verdict of guilty was returned. Counsel for the defendant filed motions to set aside the verdict and for judgment of acquittal, which motions were denied. On May 18, 1950, the court suspended the imposition of sentence for 1 year, conditioned that the defendant comply with the law during that time.

FLOUR

16707. Adulteration of flour. U. S. v. 26 Bags * * *. (F. D. C. No. 29673. Sample No. 79753–K.)

LIBEL FILED: August 3, 1950, District of Massachusetts.

ALLEGED SHIPMENT: On or about May 11, 1950, from Great Falls, Mont.

PRODUCT: 26 100-pound bags of flour in possession of H. Rohtstein & Co., Inc., Charlestown, Mass.

LABEL, IN PART: (Bag) "100 Lbs. Net * * * Rex Diamond Montana High Gluten Unenriched Bakers Flour."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent urine and rodent excreta; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. It was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: August 22, 1950. H. Rohtstein & Co., Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation of the fit from the unfit portion and denaturing of the latter for use as animal feed or foundry use, under the supervision of the Food and Drug Administration. 13 bags were found to be contaminated and were denatured.

16708. Adulteration of cake flour. U. S. v. 77 Bags * * *. (F. D. C. No. 28978. Sample No. 48789–K.)

LIBEL FILED: April 18, 1950, Middle District of Pennsylvania.

ALLEGED SHIPMENT: On or about October 25, 1949, from Buffalo, N. Y.

PRODUCT: 77 100-pound bags of cake flour at Scranton, Pa.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: June 9, 1950. William G. Lukens, Scranton, Pa., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for conversion into inedible paste, under the supervision of the Food and Drug Administration.

MACARONI AND NOODLE PRODUCTS

16709. Adulteration and misbranding of noodles. U. S. v. Harry Tom (Quong Chow Noodle Co.). Plea of guilty. Fine of $150, plus costs. (F. D. C. No. 29612. Sample Nos. 40474–K to 40476–K, incl.)

INFORMATION FILED: September 26, 1950, District of Maryland, against Harry Tom, trading as the Quong Chow Noodle Co., Baltimore, Md.

ALLEGED SHIPMENT: On or about February 27 and March 6, 1950, from the State of Maryland into the District of Columbia.

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent of the product, the solids of egg or egg yolk, had been in part omitted; and, Section 402 (b) (4), artificial color had been added to the product and mixed and packed with it so as to make it appear to be a noodle product which is better and of greater value.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for noodle products since it was made from a mixture composed of less than 5.5 percent by weight of the solids of egg or egg yolk, the minimum permitted, and the product contained artificial coloring, which is not permitted as an optional ingredient by the definition and standard. Further misbranding, Section 403 (g) (2), (1 shipment) the label of the product failed to bear the name of the food specified in the definition and standard, i. e., noodles.

DISPOSITION: November 16, 1950. A plea of guilty having been entered, the court imposed a fine of $150, plus costs.

16710. Alleged adulteration of macaroni and noodle products. U. S. v. Golden Grain Macaroni Co., Inc., and Paskey Dedomenico. Pleas of not guilty. Tried to the court. Verdict of acquittal. (F. D. C. No. 26349. Sample Nos. 36295–K, 37723–K, 37851–K, 37858–K, 37863–K, 37864–K, 37869–K, 37870–K, 40735–K.)

INDICTMENT RETURNED: April 29, 1949, Western District of Washington, against Golden Grain Macaroni Co., Inc., Seattle, Wash., and Paskey Dedomenico, president.

ALLEGED SHIPMENT: On or about August 11, 16, 20, 25, and 27, 1948, from the State of Washington into the Territory of Hawaii and the States of Montana, Idaho, and Oregon.

LABEL, IN PART: (Portion) "Golden Grain Elbo Macaroni [or "Enriched Macaroni Products," "Plain Chinese Noodles," "100% No. 1 Semolina Elbow Macaroni," or "Quick Cooking * * * Enriched Spaghetti"]."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in part of filthy substances by reason of the presence of insect fragments and rodent hair fragments; and, Section 402 (a) (4), they had been prepared, packed, and held under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: April 15, 1950. Please of not guilty having been entered, the case was tried before the court, and a verdict of acquittal was entered for both defendants.

This matter was tried simultaneously with three consolidated seizure actions involving spaghetti and macaroni products which had been shipped by the defendant, in which case, judgment was entered for the Government.

16711. Adulteration of macaroni and noodle products. U. S. v. 100 Cases (and 3 other seizure actions). (F. D. C. Nos. 25639, 25640, 25799. Sample Nos. 37850–K to 37852–K, incl., 37858–K to 37872–K, incl.)

LIBELS FILED: September 16 and October 5, 1948, Territory of Hawaii and Western District of Washington.

ALLEGED SHIPMENT AND OFFER FOR SHIPMENT: By Golden Grain Macaroni Co., Inc. Shipment on or about August 17 and 23, 1948, from Seattle, Wash., to Honolulu, T. H.; offer for shipment at Seattle, Wash., on or about September 30, 1950.

PRODUCT: Macaroni and noodle products. 100 10-pound cases, 250 12-pound cases, and 24 cases, each containing 24 8-ounce packages, at Honolulu, T. H.; and 345 cartons, each containing 3 to 12 pounds, at Seattle, Wash.

The Seattle lot was offered for shipment in interstate commerce from Seattle to Honolulu.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of insect fragments and rodent hair fragments; and, Section 402 (a) (4), they had been prepared under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: The shipper having appeared as claimant, the cases at Honolulu were consolidated with the case in the Western District of Washington and were tried before the court, together with a criminal prosecution charging violation of Section 301 (a) by Golden Grain Macaroni Co., Inc., and its president. On April 15, 1950, the court entered judgment for the Government in the seizure actions, and on May 8, 1950, decrees of condemnation were entered and the products were ordered destroyed. The defendants in the criminal case were acquitted.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS

16712. Adulteration of unpopped popcorn. U. S. v. U. Oliver Bricker (Oliver Bricker Co.). Plea of nolo contendere. Fine of $200, plus costs. (F. D. C. No. 29187. Sample Nos. 76174–K, 76175–K.)

INFORMATION FILED: June 28, 1950, Southern District of Iowa, against U. Oliver Bricker, trading as the Oliver Bricker Co., Farragut, Iowa.

ALLEGED SHIPMENT: On or about March 16 and 28, 1950, from the State of Iowa into the State of Nebraska.

LABEL, IN PART: (Bag) "Oliver Bricker Co. Farragut, Iowa 100 lbs. Shelled South American Popcorn."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of rodent hairs, rodent excreta pellets, rodent- and insect-damaged kernels, moldy kernels, and insect fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: December 14, 1950. A plea of nolo contendere having been entered, the court fined the defendant $200, plus costs.

16713. Adulteration of brewers rice. U. S. v. 650 Bags * * *. (F. D. C. No. 29546. Sample No. 72838–K.)

LIBEL FILED: August 28, 1950, Northern District of Ohio.

ALLEGED SHIPMENT: On or about July 17, 1950, by the Rice Growers Assn. of California, from West Sacramento, Calif.

PRODUCT: 650 100-pound bags of brewers rice at Toledo, Ohio.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects and insect parts; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: October 10, 1950. Default decree of condemnation. The court ordered that the product be advertised and sold for use as animal feed. On October 26, 1950, the product having been advertised and no bidders having appeared, an order was entered directing that the product be destroyed.

16714. Adulteration of wheat. U. S. v. Hensel Farmers Union Elevator. Plea of guilty. Fine of $100, plus costs. (F. D. C. No. 29193. Sample No. 64393–K.)

INFORMATION FILED: July 12, 1950, District of North Dakota, against the Hensel Farmers Union Elevator, a corporation, Hensel, N. Dak.

ALLEGED SHIPMENT: On or about January 30, 1950, from the State of North Dakota into the State of Minnesota, of a carload of wheat.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in part of a decomposed substance by reason of the presence of sour wheat.

DISPOSITION: November 14, 1950. A plea of guilty having been entered, the court imposed a fine of $100, plus costs.

CHOCOLATE, CONFECTIONERY, AND MISCELLANEOUS SACCHARINE PRODUCTS

16715. Adulteration of chocolate. U. S. v. 50 Bags * * *. (F. D. C. No. 29555. Sample No. 76671–K.)

LIBEL FILED: August 29, 1950, Eastern District of Illinois.

ALLEGED SHIPMENT: On or about March 9, 16, and 17, 1950, from Milwaukee, Wis.

PRODUCT: 50 180-pound bags of chocolate at Centralia, Ill.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: September 16, 1950. Hollywood Brands, Inc., Centralia, Ill., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for removal of such portion as was infested with insects, or otherwise objectionable and unfit for human consumption, under the direction and control of the Food and Drug Administration. In accordance with the decree, the product was trimmed in order to remove the unfit portion; a total of 580 pounds of trimmings resulted, and these subsequently were denatured and disposed of for use as animal feed.

16716. Adulteration of candy. U. S. v. John L. McDonald. Plea of nolo contendere. Fine, $75. (F. D. C. No. 26729. Sample Nos. 5648–K, 5649–K, 5652–K.)

INFORMATION FILED: March 3, 1950, District of Massachusetts, against John L. McDonald, Winthrop, Mass.

ALLEGED VIOLATION: On or about January 11 and 21 and February 8, 1949, the defendant caused various quantities of candy to be delivered for introduction into interstate commerce at Boston, Mass., for delivery to Providence, R. I.

NATURE OF CHARGE: Adulteration, Section 402 (a) (4), the product had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: April 6, 1950. A plea of nolo contendere having been entered, the court fined the defendant $75.

16717. Adulteration of honey. U. S. v. 10 Drums * * *. (F. D. C. No. 29311. Sample No. 80959–K.)

LIBEL FILED: May 12, 1950, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about February 28, 1950, by Leoncio Benito, from Camaguey, Cuba.

PRODUCT: 10 drums, each containing 705 pounds, of honey at Philadelphia, Pa.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product was unfit for food by reason of the presence of a creosote-type material.

DISPOSITION: November 9, 1950. Default decree of condemnation and destruction.

16718. Adulteration and misbranding of sorghum. U. S. v. 13 Cases * * *. (F. D. C. No. 29229. Sample No. 51485–K.)

LIBEL FILED: May 24, 1950, Southern District of Indiana.

ALLEGED SHIPMENT: On or about November 15, 1949, by Roy Lansaw & Son, from Joplin, Mo.

PRODUCT: 13 cases, each containing 12 4½-pound cans, of sorghum at Evansville, Ind.

LABEL, IN PART: "Pure Benton County Sorghum made and sold by Sunny Slope Farm * * * Holladay, Tenn. R. F. D. 2."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a commercial glucose sirup had been substituted in whole or in part for sorghum.

Misbranding, Section 403 (a), the label designation "Sorghum" was false and misleading as applied to a commercial glucose sirup.

DISPOSITION: September 5, 1950. Default decree of forfeiture. The court ordered that the product be delivered to a State institution.

16719. Adulteration of Strathmore Sweet Aids. U. S. v. 144 Bottles, etc. (F. D. C. No. 29708. Sample No. 81371–K.)

LIBEL FILED: August 24, 1950, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about June 17, 1950, by the Strathmore Products Co., from Englewood, N. J.

PRODUCT: Strathmore Sweet Aids. 144 bottles, each containing 500 tablets, and 120 bottles, each containing 1,000 tablets, at Philadelphia, Pa.

LABEL, IN PART: (Bottle) "Strathmore Sweet Aids Sweetening * * * Ingredients: Dulcin 14.7 Mgms., Soluble Saccharin 21.5 mgms. per tablet."

NATURE OF CHARGE: Adulteration, Section 402 (a) (2), the article contained an added poisonous and deleterious substance, dulcin, which is unsafe within the meaning of the law since it is a substance not required in the production of the article and can be avoided by good manufacturing practice.

DISPOSITION: September 21, 1950. Default decree of condemnation and destruction.

DAIRY PRODUCTS

BUTTER

16720. Adulteration of butter. U. S. v. Bound Brook Dairy Co., a partnership, and Benjamin Anderman and Bernard Nusbaum. Pleas of nolo contendere. Partnership fined $150, Benjamin Anderman $100, and Bernard Nusbaum $25. (F. D. C. No. 29472. Sample No. 48626–K.)

INFORMATION FILED: October 18, 1950, Eastern District of Pennsylvania, against the Bound Brook Dairy Co., Philadelphia, Pa., and Benjamin Anderman and Bernard Nusbaum.

ALLEGED VIOLATION: On or about October 26, 1949, the defendants received at Philadelphia, Pa., a number of cartons of butter which had been shipped from the State of New York into the State of Pennsylvania; and while the product was held for sale after such shipment, the defendants caused water to be added to the butter, which acts of the defendants caused the butter to be adulterated.

NATURE OF CHARGE: Adulteration, Section 402 (b) (4), water had been added to the article and mixed and packed with it so as to increase its bulk and weight and reduce its quality.

DISPOSITION: November 21, 1950. Pleas of nolo contendere having been entered, the court imposed a fine of $150 against the partnership, $100 against Benjamin Anderman, and $25 against Bernard Nusbaum.

CHEESE*

16721. Adulteration of cheese. U. S. v. 12 Wheels * * *. (F. D. C. No. 29367. Sample No. 57599–K.)

LIBEL FILED: June 22, 1950, Southern District of New York.

ALLEGED SHIPMENT: On or about June 2, 1950, by N. Dorman & Co., Inc., from Monroe, Wis.

PRODUCT: 12 wheels of cheese, each weighing 175 to 200 pounds, at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: June 28, 1950. N. Dorman & Co., Inc., New York, N. Y., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reconditioning by trimming off the rind and all contaminated portions, under the supervision of the Food and Drug Administration. Of the approximately 2,300 pounds of cheese that were seized, 717 pounds of material were removed by trimming.

MISCELLANEOUS DAIRY PRODUCTS

16722. Adulteration of ice cream and adulteration and misbranding of cottage cheese and chocolate-flavored drink. U. S. v. Campbell Dairy & Ice Cream Co., a partnership, and Harold L. Murphy. Plea of guilty on behalf of partnership and plea of nolo contendere by Harold L. Murphy. Partnership fined $100 on each of 3 counts; imposition of sentence suspended on remaining 7 counts against partnership and on all 10 counts of information against Harold L. Murphy. (F. D. C. No. 29609. Sample Nos. 75161–K to 75164–K, incl., 75166–K, 75200–K.)

INFORMATION FILED: October 4, 1950, District of New Mexico, against the Campbell Dairy & Ice Cream Co., a partnership, Clovis, N. Mex., and Harold L. Murphy, manager.

ALLEGED SHIPMENT: On or about April 24, 26, and 27, 1950, from the State of New Mexico into the State of Texas.

LABEL, IN PART: (Portions) "Campbell's Creamed Cottage Cheese" and "Campbell Ice Cream Co. Chocolate Flavored Dari-Rich Pasteurized."

NATURE OF CHARGE: Adulteration, Section 402 (a) (4), the products had been prepared, packed, and held under insanitary conditions whereby they may have become contaminated with filth.

Misbranding (cottage cheese), Section 403 (e) (1), the product failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor; Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents since the cartons were labeled "16 Oz." and contained less than 16 ounces; and, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for cottage cheese since it contained less than 4 percent by weight of

*See also No. 16722.

milk fat, as determined by the method prescribed in the definition and standard. Further misbranding (chocolate-flavored drink), Section 403 (i) (2), the product was fabricated from two or more ingredients, and the label failed to bear the common or usual name of such ingredients.

DISPOSITION: October 30, 1950. A plea of guilty was entered on behalf of the partnership, and a plea of nolo contendere was entered by Harold L. Murphy. The partnership was fined $100 on each of the first 3 counts of the information. Imposition of sentence was suspended on the remaining 7 counts of the information against the partnership and on all 10 counts of the information against Harold L. Murphy.

16723. Adulteration of condensed skim milk. U. S. v. Titusville Dairy Products Co., a corporation, and Joseph E. Taylor. Plea of nolo contendere by corporation; plea of not guilty by individual. Fine of $250, plus costs, against corporation; individual defendant found not guilty. (F. D. C. No. 29607. Sample No. 47393–K.)

INFORMATION FILED: August 1, 1950, Western District of Pennsylvania, against the Titusville Dairy Products Co., Titusville, Pa., and Joseph E. Taylor, president of the corporation.

ALLEGED SHIPMENT: On or about May 11, 1950, from the State of Pennsylvania into the State of New York.

LABEL, IN PART: (Barrel) "Sweetened Condensed Skim."

NATURE OF CHARGE: Adulteration, Section 402 (a) (4), the product had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: November 13, 1950. A plea of nolo contendere having been entered by the corporation and a plea of not guilty by the individual, the court imposed a fine of $250, plus costs, against the corporation but found the individual defendant, Joseph E. Taylor, not guilty.

EGGS

16724. Adulteration of frozen eggs. U. S. v. 77 Cans * * *. (F. D. C. No. 27252. Sample No. 60404–K.)

LIBEL FILED: May 24, 1949, Northern District of Illinois.

ALLEGED SHIPMENT: On or about May 7, 1949, by the Iowa Egg Co., from Des Moines, Iowa.

PRODUCT: 77 30-pound cans of frozen eggs at Chicago, Ill.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: August 3, 1949. Yetta Weiner, trading as the Iowa Egg Co., Des Moines, Iowa, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond, conditioned that the unfit portion be segregated and destroyed under the supervision of the Food and Drug Administration. The unfit portion, consisting of 43 cans, was denatured.

FISH AND SHELLFISH

16725. Adulteration of frozen mackerel fillets. U. S. v. 34 Cartons * * *. (F. D. C. No. 29738. Sample No. 79694–K.)

LIBEL FILED: September 18, 1950, District of Massachusetts.

ALLEGED SHIPMENT: On or about August 29, 1950, by the Cumberland Cold Storage Co., account of J. Adams' & Co., Inc., from Portland, Maine.

PRODUCT: 34 cartons, some containing 5 10-pound boxes and some containing 10 5-pound boxes, of frozen mackerel fillets at Boston, Mass.

LABEL, IN PART: (Box) "Adams' Selected Frozen Sea Foods * * * J. Adams' & Co., Inc. 23 Fish Pier Boston, Mass.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish.

DISPOSITION: October 30, 1950. Default decree of condemnation. The court ordered that the product be disposed of for purposes other than for human consumption.

16726. Adulteration and misbranding of canned oysters. U. S. v. 458 Cases * * * (and 1 other seizure action). (F. D. C. Nos. 27314 to 27316, incl. Sample Nos. 29268–K, 29276–K, 29803–K.)

LIBELS FILED: June 9 and 10, 1949, District of Colorado and District of Utah.

ALLEGED SHIPMENT: On or about April 8, 1949, by the Anticich Canning Co., from Biloxi, Miss.

PRODUCT: Oysters. 458 cases at Salt Lake City, Utah; 1,014 cases at Denver, Colo.; and 516 cases at Pueblo, Colo. Each case contained 48 4⅔-ounce cans.

LABEL, IN PART: (Can) "American Beauty Oysters Drained Weight 4⅔ Ozs."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

Misbranding, Section 403 (h) (2), the product fell below the standard of fill of container for canned oysters since the drained weight of the oysters taken from each container was less than 59 percent of the water capacity of the container, and its label failed to bear a statement that the product fell below the standard.

DISPOSITION: November 17 and 30, 1949. The following amounts were seized: 452¼ cases at Salt Lake City, 1,026 cases at Denver, and 528 cases at Pueblo. The Anticich Canning Co. having appeared as claimant, the court found that 224 cases and 151 cans at Salt Lake City, 655 cases at Denver, and 222 cases at Pueblo were fit for human consumption and were otherwise in compliance with the law, and ordered these cases and cans of oysters delivered to the claimant. The remainder of the three lots was ordered released under bond for labeling of the misbranded portion and destruction of the abnormal portion. Salvaging operations resulted in the destruction of 19 cases and 129 cans of the Salt Lake City lot and 14 cases and 27 cans of the Denver and Pueblo lots. The remainder of the cases and cans was relabeled.

16727. Adulteration of canned oysters. U. S. v. 419 Cases * * *. (F. D. C. No. 28903. Sample No. 54824–K.)

LIBEL FILED: March 15, 1950, Southern District of Alabama.

ALLEGED SHIPMENT: On or about February 22, 1950, by Quality Seafoods Co., Inc., from Pass Christian, Miss.

PRODUCT: 419 cases, each containing 48 unlabeled 4⅔-ounce cans, of oysters at Bayou La Batre, Ala.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of decomposed oysters.

DISPOSITION: April 14, 1950. The McPhillips Packing Corp., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond for the segregation of the fit from the unfit portion, under the supervision of the Food and Drug Administration. The segregation operations resulted in the rejection and destruction of 51 cases. The remainder were relabeled and released.

16728. Adulteration of frozen shrimp. U. S. v. 125 Cases * * *. (F. D. C. No. 29523. Sample No. 75257–K.)

LIBEL FILED: August 16, 1950, District of Colorado.

ALLEGED SHIPMENT: On or about July 31, 1950, by Morgan City Canning Co., Inc., from Houma, La.

PRODUCT: 125 cases, each containing 24 12-ounce cartons, of frozen shrimp at Denver, Colo.

LABEL IN PART: (Carton) "Ho-Ma Frozen Fresh Shrimp."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed shrimp.

DISPOSITION: October 2, 1950. Morgan City Canning Co., Inc., having executed an acceptance of service and authorization for taking of final decree, judgment of condemnation was entered and the court ordered that the product be destroyed.

FRUITS AND VEGETABLES

DRIED FRUIT

16729. Adulteration of dried apples and dried apple chops. U. S. v. Valley Evaporating Co., a corporation, and Ralph Hallauer and Clarence Gerhardt. Pleas of not guilty. Tried to the court and jury. Verdict of guilty for corporation; fine of $500, plus costs. Verdict of not guilty for individual defendants. (F. D. C. No. 27543. Sample Nos. 1721–K, 42130–K, 43651–K, 51260–K.)

INFORMATION FILED: October 14, 1949; amended information filed November 21, 1949, Eastern District of Washington, against the Valley Evaporating Co., Cowiche, Wash., and Ralph Hallauer and Clarence Gerhardt.

ALLEGED SHIPMENT: On or about December 31, 1948, and January 25 and February 28, 1949, from the State of Washington into the States of Georgia, Illinois, and Kentucky.

LABEL, IN PART: "Southern Special Washington Evaporated Apples Processed with Sulphur Dioxide Packed by Valley Evaporating Co. Yakima, Wash." or "Dried Apple Chops."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the dried apples consisted in part of a filthy substance by reason of the presence of rodent hairs

and rodent excreta, and the dried apple chops consisted in part of a filthy substance by reason of the presence of rodent hairs; and, Section 402 (a) (4), the products had been prepared, packed, and held under insanitary conditions whereby they may have become contaminated with filth, and the insanitary conditions consisted of mice infestation and rodent excreta pellets in the Cowiche plant at the time of the shipments.

DISPOSITION: Pleas of not guilty having been entered, the matter came on for trial before the court and jury on November 16, 1950. On November 20, 1950, the jury returned a verdict of guilty for the corporation and not guilty for the individual defendants. The court imposed a fine of $500, plus costs, against the corporation.

16730. Adulteration of dried apricots. U. S. v. 79 Cases * * *. (F. D. C. No. 28738. Sample No. 63254–K.)

LIBEL FILED: February 23, 1950, District of Massachusetts.

ALLEGED SHIPMENT: On or about December 8, 1949, by the Mayfair Packing Co., from San Jose, Calif.

PRODUCT: 79 cases, each containing 24 11-ounce boxes, of dried apricots at Somerville, Mass.

LABEL, IN PART: (Box) "Finast Brand Large Size Sun Dried Apricots."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta and rodent hairs.

DISPOSITION: April 28, 1950. The Mayfair Packing Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law by reconditioning and destroying all objectionable material, under the supervision of the Food and Drug Administration. 946 pounds of the product were salvaged as fit for human consumption, and 215 pounds were found unfit and were destroyed.

FROZEN FRUIT

16731. Adulteration of frozen strawberries. U. S. v. 531 Cans, etc. (F. D. C. No. 29364. Sample Nos. 57589–K, 57590–K.)

LIBEL FILED: June 19, 1950, Southern District of New York.

ALLEGED SHIPMENT: On or about May 24, 1950, by Southern Frozen Foods, Inc., Monticello, Ga.

PRODUCT: 531 30-pound cans of sliced strawberries and 194 30-pound cans of whole strawberries at Brooklyn, N. Y.

LABEL, IN PART: (Can) "McKenzie's Sliced Strawberries [or "Whole Strawberries"] Packed In Sugar."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of rotten berries.

DISPOSITION: October 30, 1950. Default decree of condemnation and destruction.

VEGETABLES

16732. Adulteration of canned corn. U. S. v. Dorchester Canning Co. Plea of nolo contendere. Fine, $1,000. (F. D. C. No. 29605. Sample No. 65512–K.)

INFORMATION FILED: November 8, 1950, Western Division of Wisconsin, against the Dorchester Canning Co., a corporation, Evansville, Wis.

ALLEGED SHIPMENT: On or about January 21, 1950, from the State of Wisconsin into the State of Illinois.

LABEL, IN PART: (Case) "48 No. 1 Cans Cream Style Golden Corn."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of corn worms, worm parts, and insect parts.

DISPOSITION: November 8, 1950. A plea of nolo contendere having been entered, the court imposed a fine of $1,000.

16733. Adulteration and misbranding of canned corn, green beans, and peas. U. S. v. 39 Cases, etc. (F. D. C. No. 29397. Sample Nos. 72511–K, 72514–K, 72519–K.)

LIBEL FILED: On or about July 18, 1950, Southern District of Indiana.

ALLEGED SHIPMENT: The canned corn and canned peas were shipped on or about April 20 and May 19, 1950, respectively, by Lansing B. Warner, Inc., from Chicago, Ill., and the canned green beans were shipped on or about May 19 and 26, 1950, by Lansing B. Warner, Inc., and Ray W. Thomas, from Onarga, Ill.

PRODUCT: 39 cases of canned corn, 49 cases of canned green beans, and 324 cases of canned peas. Each case contained 24 1-pound, 4-ounce (or 3-ounce) cans.

LABEL, IN PART: (Corn and green beans, labeled after shipment) "Faultless Brand * * * Cream Style Golden Sugar Corn [or "Mayflower Cut Green Beans"] * * * Distributed By Sales Producers Associates, Inc., Chicago, Ill." The canned peas were unlabeled.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of decomposed substances.

Misbranding, Section 403 (g) (1), the products fell below the standard of identity for canned corn, green beans, and peas since they had not been so processed by heat as to prevent spoilage; Section 403 (e) (1), the canned corn and canned green beans were further misbranded while held for sale after shipment in interstate commerce in that they failed to bear labels containing the name and place of business of the manufacturer, packer, or distributor, since the name and address appearing on the labels was not that of the actual distributor; and, Section 403 (a), the label statement "Cut Green Beans" was false and misleading since some of the cans so labeled contained peas.

DISPOSITION: August 29, 1950. Default decree of condemnation and destruction.

16734. Misbranding of canned butter beans. U. S. v. 48 Cases * * *. (F. D. C. No. 29368. Sample No. 71450–K.)

LIBEL FILED: June 23, 1950, District of Arizona.

ALLEGED SHIPMENT: On or about January 26, 1950, by the Mountain Pass Canning Co., from Canutillo, Tex.

PRODUCT: 48 cases, each containing 24 1-pound, 3-ounce cans, of butter beans at Phoenix, Ariz.

LABEL, IN PART: "Mountain Pass * * * Butter Beans."

NATURE OF CHARGE: Misbranding, Section 403 (g) (1), the product failed to conform to the standard of identity for canned butter beans since the article was prepared from dried butter beans and the standard provides that the vegetable ingredient, namely, butter beans, is the succulent vegetable.

DISPOSITION: September 21, 1950. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution.

TOMATOES AND TOMATO PRODUCTS*

16735. Adulteration of canned tomatoes and tomato juice. U. S. v. Charles S. Harding (Dupont Canning Co.). Plea of nolo contendere. Fine, $200. (F. D. C. No. 29191. Sample Nos. 52666–K, 52689–K, 72431–K, 72432–K.)

INFORMATION FILED: September 7, 1950, Southern District of Indiana, against Charles S. Harding, trading as the Dupont Canning Co., Dupont, Ind.

ALLEGED SHIPMENT: On or about September 30, October 5 and 10, and November 22, 1949, from the State of Indiana into the State of Kentucky.

LABEL, IN PART: (Can) "Pendennis Tomatoes * * * Altsheler & Co. Distributors Louisville, Ky.," "Dupont Tomatoes Pride of Dupont Indiana Tomatoes * * * Packed by Dupont Canning Co., Dupont, Indiana," and "Pride of Dupont * * * Tomato Juice Packed by Dupont Canning Co., Dupont, Indiana."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the canned tomatoes consisted in part of a filthy substance by reason of the presence of vinegar fly eggs and maggots, and the tomato juice consisted in part of a filthy and decomposed substance by reason of the presence of vinegar fly eggs, maggots, and decomposed tomato material; and, Section 402 (a) (4), the products had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: November 10, 1950. A plea of nolo contendere having been entered, the court fined the defendant $200.

16736. Adulteration of tomato catsup. U. S. v. 36 Cases * * *. (F. D. C. No. 29682. Sample No. 74878–K.)

LIBEL FILED: August 9, 1950, Southern District of New York.

ALLEGED SHIPMENT: On or about August 31, 1949, by the Uco Foods Corp., from Newark, N. J.

PRODUCT: 36 cases, each containing 24 unlabeled bottles, of catsup at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: August 25, 1950. Default decree of condemnation and destruction.

*See also No. 16701.

16737. Adulteration of canned tomato soup. U. S. v. 150 Cases * * * (and 1 other seizure action). (F. D. C. Nos. 28981, 28982. Sample Nos. 65526–K, 65527–K.)

LIBELS FILED: April 19, 1950, Eastern District of Wisconsin.

ALLEGED SHIPMENT: On or about November 15, 1949, by the H. J. McGrath Co., from Baltimore, Md.

PRODUCT: 200 cases, each containing 6 6-pound, 9-ounce (or 8-ounce) cans, of tomato soup at Milwaukee, Wis.

LABEL, IN PART: (Can) "McGrath's Condensed Tomato Soup" or "Pieper's Pure Food Condensed Tomato Soup."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: September 7, 1950. Default decrees of condemnation and destruction.

OILS

16738. Alleged adulteration and misbranding of oil. U. S. v. Antonio Corrao Corp., Antonio Corrao, Paul Corrao, Loumen Drug Co., and Louis Memmoli. Pleas of not guilty. Tried to the court. Indictment against Paul Corrao, Loumen Drug Co., and Louis Memmoli dismissed. Corporation and Antonio Corrao found guilty. Fine of $6,000 against corporation; suspended sentence of 1 year against Antonio Corrao. Judgment of district court reversed by circuit court of appeals; defendant corporation and Antonio Corrao discharged. (F. D. C. No. 26791. Sample Nos. 8143–K, 8146–K to 8148–K, incl., 8151–K, 8152–K.)

INDICTMENT RETURNED: March 29, 1949, Eastern District of New York, against the Antonio Corrao Corp., Brooklyn, N. Y., Antonio Corrao, Paul Corrao, the Loumen Drug Co., a corporation, Brooklyn, N. Y., and Louis Memmoli.

The pertinent facts in this case appear below:

DISPOSITION: Pleas of not guilty having been entered by the defendants, a motion to dismiss the indictment and various counts thereof was filed; and on May 12, 1949, this motion was denied. The case came for trial before the court, and on January 12, 1950, the court rendered a verdict finding the Antonio Corrao Corp. and Antonio Corrao guilty and dismissing the indictment against the other defendants. On January 19, 1950, the court imposed a fine of $6,000 against the corporation and sentenced Antonio Corrao to 1 year in prison, but suspended the prison sentence.

On January 19, 1950, the court denied the defendants' motion to set aside the verdict, and an appeal was taken to the Court of Appeals for the Second Circuit.

On November 16, 1950, the circuit court reversed the judgment of the district court, handing down the following memorandum opinion:

FRANK, *Circuit Judge:* "The defendants went to trial before the district judge without a jury, pursuant to an indictment, the first two counts of which read as follows:

'Count One: That the Antonio Corrao Corporation, a corporation, organized and existing under the laws of the State of New York, and trading and doing business in the Borough of Brooklyn, City and State of New York, and Antonio Corrao, an individual, and Paul Corrao, an individual, and Loumen

Drug Co., a corporation, organized and existing under the laws of the State of New York and having its place of business in the Borough of Brooklyn, City and State of New York, and Louis Memmoli, an individual, did, within the Eastern Judicial District of New York, on or about June 9, 1949, (sic) in violation of the Federal Food, Drug and Cosmetic Act, unlawfully introduce and deliver for introduction into interstate commerce and cause to be introduced and delivered for introduction into interstate commerce, at the Borough of Brooklyn, City and State of New York, for delivery to New Haven, State of Connecticut, consigned to Market Wholesale Grocers, Inc., a number of metal cans containing a food;

'That displayed upon the metal cans in which said food was packed, when introduced and delivered and caused to be introduced and delivered for introduction into interstate commerce, as aforesaid, was among other things, the following printed and graphic matter:

One Gallon Net
Pace
O Mio Dio
Brand
Societa Italiana Commerciale
Brooklyn, N. Y.
80% Choice Peanut Oil and 20% Pure
Olive Oil

'That said food, when introduced and delivered and caused to be introduced and delivered for introduction into interstate commerce, as aforesaid, was then and there adulterated within the meaning of 21 U. S. C. 342 (b) (1), in that olive oil, a valuable constituent, had been in whole or in part omitted therefrom;

'That said food, when introduced and delivered and caused to be introduced and delivered for introduction into interstate commerce, as aforesaid, was further adulterated within the meaning of 21 U. S. C. 342 (b) (4), in that artificial flavor and squalene had been added thereto and mixed and packed therewith so as to make said food appear to be better and of greater value, viz, an article containing more olive oil than present in said food;

'That the said Loumen Drug Co. and Louis Memmoli, defendants herein, did, on or about and between July 1947 and June 9, 1948, deliver to the Antonio Corrao Corporation, aforesaid, a substance known as squalene for the purpose of aiding, abetting, counseling, inducing and procuring the introduction and delivery for introduction into interstate commerce *of the food adulterated as aforesaid.*

'Count Two: That the Antonio Corrao Corporation, a corporation, organized and existing under the laws of the State of New York, and trading and doing business in the Borough of Brooklyn, City and State of New York, and Antonio Corrao, an individual, and Paul Corrao, an individual, and Loumen Drug Co., a corporation, organized and existing under the laws of the State of New York and having its place of business in the Borough of Brooklyn, City and State of New York, and Louis Memmoli, an individual, did, within the Eastern Judicial District of New York, on or about June 9, 1948, in violation of the Federal Food, Drug and Cosmetic Act, unlawfully introduce and deliver for introduction into interstate commerce and cause to be introduced and delivered for introduction into interstate commerce, at the Borough of Brooklyn, City and State of New York, for delivery to New Haven, State of Connecticut, consigned to Market Wholesale Grocers, Inc., a number of metal cans containing a food;

'That displayed upon the metal cans in which said food was packed, when introduced and delivered and caused to be introduced and delivered for introduction into interstate commerce, as aforesaid, was, among other things, the following printed and graphic matter:

One Gallon Net
Pace
O Mio Dio
Brand
Societa Italiana Commerciale
Brooklyn, N. Y.
80% Choice Peanut Oil and 20% Pure
Olive Oil

'That said food, when introduced and delivered and caused to be introduced and delivered, for introduction into interstate commerce, as aforesaid, was then and there misbranded within the meaning of 21 U. S. C. 343 (a) in that the statement "80% Choice Peanut Oil and 20% Pure Olive Oil" appearing as printed and graphic matter upon aforesaid case containing said food was false and misleading in that said food did not contain 20% pure olive oil;

'That said food, when introduced and delivered and caused to be introduced and delivered for introduction into interstate commerce, as aforesaid, was further misbranded within the meaning of 21 U. S. C. 343 (k) in that said food contained an artificial flavoring and did not bear labeling stating that fact;

'That the said Loumen Drug Co. and Louis Memmoli, defendants herein, did, on or about and between July 1947 and June 9, 1948, deliver to the Antonio Corrao Corporation, aforesaid, a substance known as squalene for the purpose of aiding, abetting, counseling, inducing and procuring the introduction and delivery for introduction into interstate commerce *of the food misbranded as aforesaid.*'

"Counts 3, 5, 7, 9, 11, 13, and 15 also, in variant forms, charge adulteration; counts 4, 6, 8, 10, 12, 14, and 16 also, in variant form, charge misbranding. Counts 9 to 16 inclusive each charge the alleged act was done 'with intent to defraud and mislead.'

"The pertinent sections of 21 U. S. C. read as follows:

Sec. 301. Short title. This chapter may be cited as the Federal Food, Drug, and Cosmetic Act.

Sec. 331. The following acts and the causing thereof are hereby prohibited:

(a) The introduction or delivery for introduction into interstate commerce of any food * * * that is adulterated or misbranded.

Sec. 333. (a) Any person who violates any of the provisions of Section 331 shall be guilty of a misdemeanor and shall on conviction thereof be subject to imprisonment for not more than one year, or a fine of not more than $1,000, or both such imprisonment and fine; * * *

(b) Notwithstanding the provisions of subsection (a) of this section, in case of a violation of any of the provisions of Section 331, with intent to defraud or mislead, the penalty shall be imprisonment for not more than three years, or a fine of not more than $10,000, or both such imprisonment and fine.

Sec. 342. A food shall be deemed to be adulterated—

(b) (1) If any valuable constituent has been in whole or in part omitted or abstracted therefrom; or * * * (4) if any substance has been added thereto or mixed or packed therewith so as to * * * make it appear better or of greater value than it is.

Sec. 343. A food shall be deemed to be misbranded—

(a) If its labeling is false or misleading in any particular.

(k) If it bears or contains any artificial flavoring * * * unless it bears labeling stating that fact. * * *.

"After hearing the evidence, the judge filed an opinion reading in part as follows:

'The Government's witnesses testified, in brief and inter alia, as follows. that squalene is a hydrocarbon which occurs naturally in shark liver oil, olive oil, and to a very much lesser extent, in peanut oil, cottonseed oil and other vegetable oils; that the defendant Antonio Corrao Corporation is engaged in the blending and sale and shipping in intrastate and interstate commerce of olive oil, peanut oil and other edible oils; that the defendants Antonio Corrao and Paul Corrao are officers of the said corporation and responsible for the operation of its business; that the said three defendants, for the purpose of making the product appear better and of greater value added squalene to a blend of peanut oil and olive oil, which they thereafter sold and shipped in interstate commerce; that there is no scientific method of distinguishing squalene present in olive oil; that prior to the aforementioned interstate shipments, government chemists had added anthranilic acid, a coal tar intermediate, as a tracer or marker, to a supply of squalene which had been extracted from shark liver oil at the plant of Distillation Products, Inc., at Rochester, New York; that anthranilic acid is not a natural component of squalene or olive, peanut or other vegetable oil; that the squalene to which

anthranilic acid had been added, as aforesaid, was thereafter shipped to several addresses in Brooklyn, New York, where the plant of the defendant Antonio Corrao Corporation is located. (There was no testimony, however, that any of such squalene was shipped to said defendant Corporation.) That government chemists analyzed samples taken from the oils shipped in interstate commerce, as aforesaid, and found, as they testified, that they contained anthranilic acid, which, as hereinabove stated, is not a natural component of olive oil, peanut oil or squalene. That the cans in which said oil was shipped in interstate commerce bore labels containing, among other things, the statement "80% choice peanut oil and 20% pure olive oil"; that the government chemists found, after tests and analyses, that the said cans were misbranded in that the contents thereof contained less than 20% of olive oil.

'The defendants' witnesses categorically denied that the said oils shipped in interstate commerce were in any manner adulterated or misbranded. Experts, called in behalf of the defendants, testified that they had made analyses of samples of the said oil and found no anthranilic acid or other adulterant present therein. At least one of them testified further that the blend of oil contained no artificial flavor. At the conclusion of the trial of the case, counsel for the defendants Louis Memmoli and Loumen Drug Company moved in behalf of his clients for the dismissal of the indictment as against them on the ground that the government had failed to establish beyond a reasonable doubt their guilt of the crimes charged in the indictment. The motion was granted.

'The government has failed to establish beyond a reasonable doubt that the defendant Paul Corrao authorized or directed the alleged adulteration and/or misbranding of the oils, or controlled the blending operation, or was otherwise responsible for the acts which are the subject matter of the indictment. Consequently, the indictment and each and every count thereof, is dismissed as against the defendant Paul Corrao.

'Respecting the defendants Antonio Corrao and Antonio Corrao Corporation: I am called upon to resolve a sharp conflict in the testimony of the government and defense experts with respect to the alleged misbranding and adulteration.

'As to the charge of misbranding, the government testimony consisted largely, if not entirely, of the results of taste or flavor test. It was neither effective nor adequate. Two government witnesses stated they had tasted samples of the oil in question and detected an artificial flavor which they did not identify. The evidence in the case indicates that squalene is colorless, odorless and tasteless, and there was no evidence that the alleged artificial flavor was that of anthranilic acid, if, indeed, it has a flavor. In addition, there was a great variance in the testimony of the government's expert witnesses as to the extent of the alleged deficiency in olive oil.

'The witness Damasiewicz, using the taste test, estimated that there was 5 to 10% of olive oil in the blend, whereas Dr. Fitelson, after a similar test, estimated the olive oil content to be between 2 and 3%. I do not question their expertness, but I do have serious doubts as to the efficacy of a test which could produce such a wide difference and range of expert opinion, particularly so when the testimony reveals that part of the olive oil used in the blend was refined olive oil, which is tasteless. I do not believe such proof is of the standard required to support a conviction of the charge of misbranding, and hence, counts 2, 4, 6, 8, 10, 12, 14, and 16 of the indictment are dismissed * * *.

'As hereinbefore stated, the government charges that at the time of the introduction and delivery in interstate commerce of the aforementioned blended oils, the same was adulterated in that (1) a valuable constituent, to wit: olive oil had been in whole or in part omitted therefrom, and (2) artificial flavor and squalene had been added thereto and mixed and packed therewith so as to make said food appear better and of greater value.

'The government contends, inter alia, that by proving that squalene was added to the blended oils referred to in the indictment it inferentially establishes that olive oil was in whole or in part omitted therefrom.

'The natural squalene content of olive oil varies with the geographical source of the oil and the climatic and other conditions under which it is produced. There was no evidence to indicate the squalene content of the said blended oil prior to the alleged adulteration. Hence, the government has failed to establish that the same was adulterated "in that olive oil, a valuable

constituent, had been in whole or in part omitted therefrom" as alleged in counts 1, 3, 5, 7, 9, 11, 13, and 15 of the indictment.

'However, the testimony of the government witnesses, particularly Dr. Fitelson, and the tests made in the courtroom during the trial convince me beyond a reasonable doubt that the defendants Antonio Corrao and Antonio Corrao Corporation adulterated the blended oils referred to in the indictment by adding squalene thereto and mixing it therewith in order to make the same appear to be better and of greater value.

'Accordingly, I find the said defendants Antonio Corrao and Antonio Corrao Corporation guilty of counts 1, 3, 5, 7, 9, 11, 13, and 15 of the indictment.'

"From judgments sentencing the defendants Antonio Corrao and Antonio Corrao Corporation, they appeal.

"To the facts stated in the trial judge's opinion, the following should be added: Olive oil is more expensive, and is regarded by consumers as more desirable, than vegetable oils. To cheat consumers, some blenders sold blends of olive and peanut oil (or of other vegetable oils) containing a smaller percentage of olive oil than that stated on the labels. Until 1943, the enforcing officials had been unable to detect the amount of olive oil in such a blend. In 1943, there developed the squalene test designed to enable the officials to do so; this test depends upon the fact that olive oil has a relatively large quantity of natural squalene. However, if a blender adds a sufficient amount of squalene obtained from shark-liver oil, the officials using the squalene test will be deceived as to the percentage of olive oil in the blend, unless they discover the fact of the addition of such an amount of shark-liver squalene.

"1. The judge acquitted defendants of the misbranding charges, including a charge that the label was false and misleading in representing that the blend contained 20% of olive oil. The defendants were also charged with adulteration (a) under 21 U. S. C. A. 342 (b) (1), in that olive oil had been in whole or part omitted, and (b) under 21 U. S. C. A. 342 (b) (4) in that they added squalene 'so as to * * * make said food appear to be better or of greater value than it is, viz. an article containing more olive oil than present in said food.' The judge acquitted them of the charge under § 342 (b) (1). He held them guilty of the charge under § 342 (b) (4). He found that they had added some squalene, and we shall assume that this finding was correct.

"2. The form of adulteration prohibited by § 342 (b) (4) is so-called 'economic adulteration,' *i. e.*, that which adversely affects the consumer's pocketbook through the creation of a false appearance, enabling the seller to palm off on the consumer an inferior product as one of superior quality.[1] The addition of shark liver squalene cannot create such a false appearance to the consumer, since the squalene cannot be seen, tasted or smelt by the consumer, and so cannot cause the blend to appear to the consumer to be 'better or of greater value than it is.' There was, therefore, no direct deception of the consumer.

"3. However, we shall assume, *arguendo*, that § 342 (b) (4) covers indirect deception, *i. e.*, the addition of an ingredient which creates a false appearance to the enforcing officers, leading them to believe that the product is 'better or of greater value than it is,' in such a manner that the consumer, by losing the protective services of the officials, suffers an economic disadvantage.

"On that assumption, there would have been a violation here, if the squalene added by defendants made the blend seem to the officers, when they used the ordinary squalene test, to contain 20% of olive oil, although actually it con-

[1] See *Federal Security Administrator* v. *Quaker Oats*, 318 U. S. 218, 230; *United States* v. *Two Bags, etc.*, 147 F. (2d) 123 (C. A. 6).

tained less; for then, by the defenedants' act, the consumer, to his economic harm, would have lost the officers' protective services. But here no violation of that kind was proved, for the judge found that the government failed to prove that the olive oil content was less than 20%.

"It is suggested, however, that indirect deception, in violation of the statute, occurred if the added squalene, on an ordinary squalene test, led the officers to believe that the blend contained a larger percentage of olive oil than it did contain, even if the actual percentage was 20%, *i. e.*, the percentage represented to the consumer. It may be urged that such a construction of the statute is untenable because, unless there is less olive oil than that stated on the label, the consumer, who knows nothing of the squalene content, cannot be disadvantaged economically since he receives what he thought he was buying. But we need not decide whether the suggested construction of the statute is correct, because, even if it is, no statutory violation was proved. For the judge expressly found: 'The natural squalene content of olive oil varies with the geographical source of the oil and the climatic and other conditions under which it is produced. There was no evidence to indicate the squalene content of the said blended oil prior to the alleged adulteration.' As there was no evidence of the squalene content of the blend before the shark-liver squalene was added, there was no evidence of the amount that defendants added, and therefore no evidence that the added amount was sufficient to create an appearance which would deceive the officials. For, according to the judge's finding, the correlation between (a) the quantity of natural squalene and (b) the quantity of olive oil is not so exact that the addition of any amount, however small, of shark liver squalene will necessarily make it appear, on a squalene test, that the percentage of olive oil in a blend is greater than it actually is.

"4. True, the judge found that defendants had added squalene 'in order to make [the product] appear to be of better and greater value.' This means that they acted with the purpose or intention of doing that which the statute forbids.[2] But, for the reasons stated above, there was no proof that defendants had done any act violating the statute. Under § 333 (a), the forbidden act is a misdemeanor, even in the absence of any improper intent.[3] Under § 333 (b), the forbidden act, plus an 'intent to defraud or mislead,' is a felony. Under neither of those sub-sections is there a crime if the defendant does not do the forbidden act, although he has an intent to violate. To illustrate: It has been held to be a violation of the statute for a seller of white poppy seeds to add coloring-matter that makes them blue, when naturally blue seeds fetch a higher price from consumers;[4] It could not be a violation if a seller, fully intending to render white seeds blue, added matter which actually left the appearance of the seeds wholly white.

"5. It may be true, that, since the defendants, by adding some squalene, prevented the officials from learning what the original squalene content had been, they thereby frustrated the officials' efforts to find out whether or not

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[2] In the colloquy in connection with the motion to set aside the verdict, the judge said: "I decided, however, that squalene was added. * * * Adding a foreign substance, such as squalene, for the purpose of making it appear to be a better product and of greater value I found them guilty on * * * Sometimes circumstances, inferences, spell out intent, and I could not understand how anybody could add squalene unless I believed that they did it intentionally to make the product look better and defraud the consuming public."

[3] *U. S.* v. *Dotterweich*, 320 U. S. 277, 280; *U. S.* v. *Kaadt*, 171 F. (2d) 600 (C. A. 7): *Triangle Candy Co.*, v. *U. S.* 144 F. (2d) 195 (C. A. 9).

[4] *U. S.* v. *Two Bags, etc.*, 147 F. (2d) 123 (C. A. 6):

the added squalene made the blend appear 'better or of greater value than it is.' Perhaps such conduct should be punishable. But we think the statute, as it now reads, does not prohibit it.

"*Reversed.*"

CHASE, *Circuit Judge* (dissenting): "The appellants were charged in count one with adulterating the blended oil (1) by omitting olive oil, which was a valuable constituent, in whole or in part; and (2) by adding squalene 'so as to make said food appear to be better and of greater value, viz., an article containing more olive oil than present in said food.'

"They were charged in count two with misbranding for the same reasons, *i. e.*, (1) omitting olive oil and (2) adding squalene.

"The blend was branded as one containing 80% peanut oil and 20% olive oil. The only reliable proof of the percentage of olive oil in it was the proof of the amount of squalene. Squalene is found in olive oil in varying percentages depending upon the conditions under which the olives from which it is made are grown. So if a blended oil, when tested, is found to have at least as much squalene as any olive oil content of 20% would give it, there may be at least 20% of olive oil in it. But the greater the percentage of squalene the greater the percentage of olive oil apparently, and so the better the blend appears to be for, absent adulteration, the percentage of squalene varies directly with the olive oil content.

"This blend when tested did show that much squalene and so the trial judge did not find any misbranding. We cannot, of course, disturb that finding. But it was made in the face of the fact that the same judge also found on adequate evidence that shark liver squalene had been added to the blend. This addition of squalene certainly required extra effort to say nothing of extra expense in making up the blend and that the addition was made to cover up an actual deficiency in olive oil, the more costly ingredient in the blend, was an inference plainly to be drawn from the known facts. Had the blend contained 20% of olive oil there would have been no advantage to be gained by adding squalene for there was no reason to spend money, time and effort to make it appear to be better than it was labeled. And when it was proved and found that shark liver squalene was put into the olive and peanut oil blend it was also proved, and it should have been found, that there was less olive oil in the blend than 20%.

"However, my present concern is not primarily with an error which we cannot reach on appeal but with trying to prevent that error from being more far reaching than it should be. As to the charge of misbranding, the acquittal must stand. But this failure to draw the proper inference of fact as to a deficiency in olive oil affected the first count charging adulteration only in part in that adulteration by the omission of olive oil was not found. Just as in respect to the misbranding charged in the second count, what seems to have been the only fair inference was not drawn to establish adulteration by the omission of olive oil.

"Nevertheless, when the judge came to deal with adulteration by the addition of shark liver squalene, he did find that it was added to the blend 'in order to make the same appear to be better and of greater value.' He was not so handicapped as he had been before as to drawing permissible inferences from proved facts and in this respect gave effect to the inference that the shark liver squalene was added to make the blend appear to contain more

olive oil than it actually did contain. The added squalene deceived the enforcement officials as to the actual olive oil content and brought such adulteration squarely within the scope of the statute.

"I would affirm the judgment."

16739. **Alleged misbranding of oil. U. S. v. Antonio Corrao. Plea of not guilty. Tried to a jury; verdict of guilty. Jury verdict set aside and new trial ordered; defendant retried by court and acquitted.** (F. D. C. No. 14255. Sample Nos. 50970–F, 57263–F to 57265–F, incl., 76113–F, 76117–F, 76119–F, 76482–F, 76483–F, 77830–F.)

INFORMATION FILED: June 2, 1945, against Antonio Corrao, Brooklyn, N. Y.

ALLEGED SHIPMENT: Between the approximate dates of August 4, 1943, and February 7, 1944, from the State of New York into the States of Pennsylvania, New Jersey, and Connecticut.

LABEL, IN PART: "Figlia Mia Brand * * * Composed of 80% Cottonseed & Peanut Oils 20% Pure Olive Oil Packed By Universal Salad Oil Co. Brooklyn, N. Y." or "La Sposa Brand * * * Composed of 80% Cottonseed & Peanut Oils 20% Imported Olive Oil * * * Packed By Universal Salad Oil Co. Brooklyn, N. Y."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label statements "Composed of 80% Cottonseed & Peanut Oils 20% Pure [or "Imported"] Olive Oil" were false and misleading since the product was composed essentially of cottonseed oil and contained very little olive oil, and four lots, in addition, contained little or no peanut oil; and (portion of product), Section 403 (f), certain information required by the law to appear on the label did not appear in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use since the label on the cans bore representations in a foreign language, Italian, and the common or usual name of each ingredient did not appear on the label in Italian.

DISPOSITION: A plea of not guilty having been entered, the defendant filed a motion for a bill of particulars on August 10, 1945, which motion was granted. In April 1946, the case came on for trial before the jury. At the conclusion of the trial, the defendant's attorney filed a motion to dismiss, which motion the court reserved decision on. The case was sent to the jury, which found the defendant guilty. Defendant then filed a motion to set aside the verdict as contrary to the weight of evidence, and on August 15, 1946, the court handed down the following memorandum opinion setting aside the jury verdict and ordering a new trial:

ABRUZZO, *District Judge:* "There was a motion made at the end of the case after the jury had returned a verdict of conviction, and I reserved decision on that motion. I wish at this time to set forth the reasons for the action which I am about to take. Under the pleas of not guilty the defendant was convicted on counts 2, 4, 6, 8, 10, 12, 15, 17, and 20. Under these counts the proof showed that the cans of olive oil had the following words on them: 20% olive oil, 80% cottonseed and peanut oil. There were other counts wherein the charge was that the oil was adulterated, but I dismissed all of those counts, as they seemed to be a duplication of the counts charging misbranding. There were other misbranding counts which I dismissed because there were not contained on the can the words, '20% olive oil and 80% cottonseed and peanut oil.'

"Tests were made of the cans of olive oil which were intercepted by the Government in interstate commerce, and these tests were the subject of the testimony before the jury upon which the conviction was based. The olive oil that went in these cans which I have seen was tested by the Government and they depended in their tests on breaking down the contents of the olive

oil and then performing what is known as a squalene test, which was evolved by Dr. Fitelson, a Government witness employed by the Government, and as a result of these tests and the testimony given by him the jury convicted this defendant. This squalene test has never been officially adopted by the Association of Official Agricultural Chemists, and I understand the time for them to determine whether to adopt this as a permanent test or not is to be in November, and action will be taken at that time to determine whether they will adopt this as the test for the detection of olive oil, and as I recall the testimony, Dr. Fitelson testified that he adopted a certain formula based upon his examination of many oils, and adopting that particular formula he came to the conclusion that there was 1 to 2 percent olive oil in each of the cans pertaining to the counts which were left to the jury, but he testified, however, that had he adopted any other formula but the one he did—and it is quite evident that no expert could foresee the formula that he saw fit to adopt—he would get a greater content of olive oil.

"Under the circumstances, I do not think a verdict of guilty is justified, and on the weight of the evidence I am going to set the verdict aside under each count. I do this because perhaps the Government can strengthen its proof by the time a new trial is on, and it should be given the opportunity to do so. It might call other experts or other tests might be made which would have greater probative value in court and before a jury. I am not unmindful of the fact that it is important that if this man is guilty he should be punished. On the other hand I am not unmindful of the fact that in the present state of the proof I cannot conscientiously allow the verdict to stand.

"For these reasons I grant the motion to set aside the verdict, and only upon the grounds which I have set forth in this opinion, and I direct that the case be placed on the calendar for retrial in the early part of November."

The case was retried before a judge without a jury, and in January 1949 a verdict of acquittal was entered.

16740. Adulteration and misbranding of oil. U. S. v. 22 Cases * * * (and 4 other seizure actions). Cases consolidated for trial. Claimant's motion for discovery denied. Case tried to a jury; verdict returned for Government; decree of condemnation entered. Judgment of district court affirmed by circuit court of appeals. Certiorari to United States Supreme Court denied. Claimant's motion to retax costs granted in part and denied in part. (F. D. C. Nos. 25075 to 25078, incl., 25092. Sample Nos. 8143–K, 8146–K to 8149–K, incl., 8151–K, 8152–K.)

LIBELS FILED: July 14, 1948, District of Connecticut; amended January 26, 1949.

ALLEGED SHIPMENT: On or about June 9, 14, 15, and 16, 1948, by the Antonio Corrao Corp., from Brooklyn, N. Y.

PRODUCT: Oil. 22 cases at New Haven, Conn., 15 cases at Waterbury, Conn., 15 cases at Bristol, Conn., and 5 cases at Torrington, Conn. Each case contained 6 1-gallon cans.

LABEL, IN PART: (Can) "Figlia Mia Brand a blend consisting of 90% vegetable oils, choice cottonseed, corn and peanut oils, plus 10% pure olive oil" or "Pace O Mio Dio Brand 80% choice peanut oil and 20% pure olive oil."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent olive oil, had been in whole or in part omitted; and Section 402 (b) (4), artificial flavoring had been added to the product and mixed and packed with it so as to make it appear to be better or to contain substantial amounts of olive oil, which is better and of greater value than the product was. Squalene had been added to the product and mixed and packed with it so as to make

it appear to be of greater value than it was, namely, to be a product containing more olive oil than it actually contained.

Misbranding, Section 403 (a), the label statements "20% pure olive oil" and "10% pure olive oil" were false and misleading as applied to the product, which contained little, if any, olive oil.

DISPOSITION: On September 30, 1948, the court ordered the actions consolidated for trial. On October 1, 1948, the Antonio Corrao Corp. appeared as claimant and filed an answer denying the allegations of the libels. The claimant then filed a motion for discovery and inspection, which the court denied on February 4, 1949, handing down the following memorandum opinion and order:

HINCKS, *District Judge:* "This action arises out of a libel by the Government, pursuant to Section 334 of the Federal Food, Drug and Cosmetic Act, 21 U. S. C. A., Sec. 301, et seq., resulting in a seizure of five cases more or less of cans of oil, alleged to have been adulterated and misbranded. It is presently before the Court on a motion by the Antonio Corrao Corporation, as claimant of the libeled merchandise, for an order requiring the government to produce true and exact copies of 'each and every chemical test and analysis' made by the government on the samples taken by it from the seized merchandise. The gist of the claimant's position is that the allegations of the libel do not reveal the nature of the alleged adulteration with exactitude; that the claimant is entitled to know the specific substances and exact percentages thereof with which the government asserts claimant adulterated the oil; and that the rights of the claimants will be seriously prejudiced unless prior to trial the claimant should be allowed to inspect the chemical analyses made by the government's experts, which, presumably will constitute the basis of the prosecution. The claimant contends that he is entitled to this inspection under Rules 26, 33, and 34 of the Federal Rules of Civil Procedure.

"In opposing the motion the libelant relies first upon the strict exclusiveness of the language used in Section 334 (c) of the Act allowing a claimant a true copy of the analysis upon which the proceeding is based only where a fresh fruit or vegetable is involved and second on the theory that the libelant should not be required to disclose expert testimony or opinions of its chemists who analyzed the oil seized, particularly in the absence of the claimant's showing of necessity or of hardship resulting from the denial.

"This proceeding, while commencing as a libel under the Admiralty Rules, nevertheless, at this stage, is an action at law and is governed by the Federal Rules of Civil Procedure. *Four Hundred and Forty-three cases of Frozen Egg Product* v. *U. S.*, 226 U. S. 172, 183; *U. S.* v. *935 Cases Tomato Puree*, 136 F. 2d 523; *Reynolds* v. *U. S.*, 153 F. 2d 929, 931. The claimant's request for production and inspection of the tests and analyses made by the libelant comes within the scope of Rule 34.

"There is much support for claimant's contention that the Rules of Civil Procedure governing the discovery process have been liberally construed. 3 Moore's Federal Practice, Sec. 34.04, *Hickman* v. *Taylor*, 329 U. S. 495, 507; *United States* v. *300 cases of Black Raspberries*, 7 F. R. D. 36, 37; *Stark* v. *American Dredging Co.*, 3 F. R. D. 300. But this liberal construction of disclosure before trial has not developed without limitations. As the Supreme Court noted in Hickman v. Taylor, supra, '* * * discovery like all matters of procedure has ultimate and necessary boundaries.' And this is particularly true with reference to Rule 34 under which claimant presently seeks relief.

"Discovery and production of documents under Rule 34 is not a matter of right, *Sutherland Paper Box Co.* v. *Grant Paper Box*, 8 F. R. D. 416, 417. This rule, by its very language, is more rigid than rules relating to depositions and interrogatories, and to entitle the applicant to the order prayed for he must show good cause therefor, designate the documents desired, and show that they are not privileged and are material to the matter involved. *Martin* v. *Capital Transit Co.*, 170 F. 2d 811; *Heiner* v. *North American Coal Corp.*, 3 F. R. D. 63. And this language of Rule 34 must be read in the light of the general principles governing the application of the Federal Rules, 26–37 inclusive, embracing Depositions and Discovery. In *Hickman* v. *Taylor*, supra, the Supreme Court recently enunciated a principle of discovery limiting dis-

closures to those instances wherein the denial of the same would unfairly prejudice the party seeking inspection in preparing his claim or would cause him undue hardship or injustice. Cf. 2 Moore's Federal Practice, 1947 Cumulative Supplement, Sec. 26.12, p. 172.

"What constitutes 'good cause' is a difficult question, and as the learned editor has suggested in 2 Moore's Federal Practice, Sec. 34.04, considerations of practical convenience are of prime importance. But even under the most liberal construction of this rule, mere assertions of threatened prejudice are not enough. The Court must be satisfied that the production of the requested document is necessary to enable a party to prepare his case, or that it will facilitate proof or progress at the trial. *Hickman* v. *Taylor*, supra, 509, *Gordon* v. *Pennsylvania R. Co.*, 5 F. R. D. 510, 512.

"Even with the liberal objective of the Federal Rules in mind I fail to see that the claimant has adequately met the requirement of Rule 34—namely, a good cause for the discovery. Concededly the claimant has had opportunity to make its own tests and analyses which may be offered in evidence in defense against a forfeiture. With such authentic evidence within ready reach I cannot find that the claimant will suffer unfair prejudice if not accorded a preview of the government's evidence.

"This holding is altogether compatible with the Federal Food, Drug and Cosmetic Act which expressly enumerates fresh fruits and vegetables as the only types of products concerning which a claimant is entitled to a true copy of the analysis. Apparently Congress realized that the tendency of such fresh produce to spoil left a claimant with scant opportunity for useful and necessary inspection of his own and that consequently, in fairness, the Government report should be made available to him. But that is not the case here.

"From this conclusion I cannot recede even though it be deemed at variance with the holding in *United States* v. *300 cases of Black Raspberries*, supra. With all deference, I cannot see the necessity of a court order to enable a claimant to pierce 'the dark veil of secrecy over pertinent facts' when without an order he can poke his head within the veil and make his own observation of the facts.

"IT IS ACCORDINGLY ORDERED that the motion be denied."

The consolidated cases were tried before a jury, and on March 31, 1949, the jury returned a verdict for the Government. On April 1, 1949, the court ordered that the product be condemned and delivered to charitable institutions or sold for use in soap manufacture. The judgment was appealed to the U. S. Court of Appeals for the Second Circuit, and on January 10, 1950, the following opinion was handed down, affirming the decision of the district court:

SWAN, *Circuit Judge:* "This is an appeal by Antonio Corrao Corporation from a decree condemning certain cases of edible oils which the appellant had blended in its plant in Brooklyn, New York, and shipped to purchasers in Connecticut in June 1948. The libel of information in each of the five consolidated proceedings alleged that the oil was adulterated within the meaning of the Federal Food, Drug and Cosmetic Act,[1] in that (1) it contained little, if any, olive oil, (2) artificial flavoring had been added to simulate olive oil, and (3) squalene had been added.[2] The libel also charged misbranding in that the label statements as to the percentage of pure olive oil were false and misleading.[3] The jury returned a special verdict finding that the goods were adulterated and misbranded as charged. The appeal challenges the sufficiency of the evidence to support the verdict and assigns numerous errors to the conduct of the trial.

"1. The evidence is sufficient: Squalene is a hydrocarbon found in olive oil. The squalene content of blended edible oils is the universally accepted criterion of the amount of olive oil present in a blend. However, squalene is also found in shark liver oil and it is impossible to distinguish one squalene from the other. Consequently by adding shark liver squalene to peanut oil a blend can be produced which will appear to contain 10% or 20% of olive oil, although in fact it contains little or none. Knowing that the commercial source of shark liver squalene was a distilling company in Rochester, government agents 'marked' it by mixing a small amount of anthranilic acid in the Rochester

[1] 21 U. S. C. Section 342 (b) (1) and (4).
[2] The third charge was amended by amendment to the libel.
[3] 21 U. S. C. Section 343 (a).

company's product. If any of this 'marked' squalene were added to peanut oil to make the blended oil measure up to the squalene test for olive oil, the fraud could be detected by using a chemical which would cause the anthranilic acid to take on a reddish hue. The chemical test, when it was applied to the seized samples of appellant's oil, disclosed that they contained anthranilic acid. A shipment of the Rochester company's 'marked' squalene was traced to Memmoli in Brooklyn, and he was shown to be an acquaintance of the appellant's president. The 'marked' squalene was not traced beyond Memmoli but it was extremely improbable that any anthranilic acid should have gotten into the seized samples except from using the 'marked' squalene traced to him. The appellant suggests that anthranilic acid may accidentally have gotten on the olives themselves, but that possibility was for the jury to weigh. Their inference that it came from the Rochester company's shipment was certainly a permissible one and amply justified their special verdict as to adulteration and misbranding.

"2. It is contended that the samples put in evidence were not proved to be 'representative' samples of the goods contained in each shipment. For example, the shipment to Market Wholesale Grocers consisted of 180 one-gallon cans, and the government restricted its proof to an analysis of the contents of only one can out of this shipment. However, witnesses testified to the appellant's method of manufacturing and said that as much as 8,000 gallons were mixed at one time. If all the cans in each shipment to a single consignee were filled from the same 'mix,' obviously a sample taken from one can was representative of all the cans in that shipment. The appellant offered no evidence to prove that the contents of the cans in a single shipment came from different mixes. In the absence of such evidence, the jury was entitled to infer that all the oil in any one shipment (the largest of which consisted of only 180 gallons) did come from the same mix and, therefore, that the one gallon sample was representative of all the cans in the shipment. The contention that the burden of proof on this issue was erroneously placed on the appellant is not substantiated by the charge. The jury was instructed that before they could make any finding favorable to the Government they must find that the sample involved was representative of the shipment. This plainly put the burden of proof on the libellant, and the later statement that they could take into consideration the claimant's failure to ask for additional samples can not fairly be construed as an instruction shifting the burden of proof, as the appellant now contends.

"3. There was no error in denying appellant's counsel permission to make an opening statement to the jury. While there appears to be an absolute right to open, without express statutory provision therefor, in a few jurisdictions,[4] the rule is by no means universal.[5] We think that opening is merely a privilege to be granted or withheld depending on the circumstances of the individual case. Since an opening must not be argumentative, its utility lies chiefly in outlining the facts to be proven, especially where they are rather complex.[6] Here the issues to be tried were simple and had been clearly explained by the court upon the voir dire. Hence we see no abuse of discretion in the denial of counsel's request. Even if the denial were erroneous, the error would not appear to be prejudicial since counsel was accorded the right of summation.

"4. Nor was there error in excluding the appellant's president from the court room. The appellant had requested that witnesses be excluded. The judge granted that request but, in effect, annexed to the grant the condition that Mr. Corrao, who was also to be a witness, should likewise be excluded. This was not, as appellant contends, the exclusion of a party; the corporation, not Mr. Corrao, was the claimant. One case has been found holding it was prejudicial error to exclude a corporation's president from the courtroom where he was charged with the duty of looking after the corporation's interest at the trial. *Sherman* v. *Irving Merchandise Corp.*, 26 N. Y. S. 2d 345. That decision appears never to have been cited. As the matter is clearly procedural, we shall follow the rule of universal application in federal courts that the exclusion of witnesses from the courtroom lies within the discretion

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[4] *Curtis* v. *People*, 211 P. 381 (Col.); *People* v. *McDowell*, 284 Ill. 504.
[5] *Woods* v. *State*, 17 So. 2d 112 (Fla.); *Henderson* v. *State*, 29 So. 2d 698 (Fla.); *Stewart* v. *State*, 17 So. 2d 871 (Ala.).
[6] 2 Bishop, New Criminal Procedure, Sec. 969 (2d Ed.).

of the trial judge. See *Holder* v. *United States*, 150 U. S. 91; *Oliver* v. *United States*, 10 Cir., 121 F. 2d 245, 250; *Mitchell* v. *United States*, 10 Cir., 126 F. 2d 550. There was no abuse of discretion in attaching to the granting of appellant's motion to exclude witnesses the condition that the witness Corrao should also be excluded.

"5. The next objection is denial of the claimant's motion for discovery. Before trial the claimant moved for an order directing the United States to furnish it with true and exact copies of each and every chemical test and analysis made by or for the United States on the samples of oil taken from the seized goods. The motion was based on Rule 34 of the Federal Rules of Civil Procedure. The Government suggests that a condemnation proceeding under the Food, Drug and Cosmetic Act is not subject to the Civil Rules because 21 U. S. C. Section 334 (b) provides: '* * * the procedure in cases under this section shall conform, as nearly as may be, to the procedure in admiralty * * *.' However, the Supreme Court has interpreted this as referring only to the initial procedure of seizure by process *in rem*. *443 Cans of Frozen Egg Product* v. *United States*, 226 U. S. 172. It now appears well established that the Rules of Civil Procedure do apply to condemnation proceedings. *Eureka Productions, Inc.* v. *Mulligan*, 2 Cir., 108 F. 2d 760; *United States* v. *88 Cases, etc., of Bireley's Orange Beverage*, 5 F. R. D. 503 (D. C. N. J.); *cf. United States* v. *720 Bottles*, 3 F. R. D. 466 (D. C. N. Y.). And discovery need not be limited to analyses of fresh fruits and vegetables under the better interpretation of 21 U. S. C. Section 334 (c).[7] *United States* v. *300 Cases, etc., of Black Raspberries*, 7 F. R. D. 36 (D. C. Ohio).

"Rule 34 permits discovery only when 'good cause therefor' is shown. Judge Hincks rightly ruled that no good cause for the discovery appeared, since the claimant had already made its own tests and analyses upon samples which had been supplied at its request. The motion for discovery preceded by a few days the amendment to the libel asserting adulteration by the addition of squalene. The claimant evidently anticipated that this charge would be made since its brief states that 'its chemist had advised that there was no known method of determining whether squalene had been added, and consequently claimant moved for discovery.' The claimant had no knowledge until the trial as to the anthranilic acid evidence. Objection was then made on the ground that there was no charge that such acid had been added. This was not a valid objection; testimony as to the presence of anthranilic acid was not offered to establish adulteration of the oil by the addition of this acid but to establish the addition of 'marked' squalene. Had the claimant urged surprise in the introduction of the evidence dealing with anthranilic acid, he would have been entitled at most to a continuance, but no such request was made. See *Murphy* v. *Overlakes Freight Corp.*, 2 Cir., Oct. 28, 1949.

"6. Calling Memmoli as a witness: After a shipment of the Rochester distiller's 'marked' squalene had been traced into the hands of Memmoli, he was put on the stand by the libellant. When asked his occupation, he claimed his privilege against self-incrimination, disclosing that he was under federal indictment in New York. Thereafter a series of questions were put to him, culminating in the question whether he had sold any squalene to the claimant. As to each question he claimed his privilege. The claimant then moved for a mistrial on the ground that the propounded questions were prejudicial to it.

"In *Wigmore on Evidence*, 3d, ed. Section 2268, the learned author says: 'The privilege is merely an *option of refusal*, not a prohibition of inqury,' and 'it is universally conceded that the question may be put to the *witness on the stand*.' [Emphasis in original.] Nevertheless we are not prepared to say that it would not be ground for reversal if the party who called a witness connected with a challenged transaction knew, or had reasonable cause to know, before putting the witness on the stand that he would claim his privilege. See *McClure* v. *State*, 251 S. W. 1099 (Tex.); *Rice* v. *State*, 51 S. W. 2d 364 (Tex.); *cf. People* v. *Kynette*, 104 P. 2d 794; 802 (Cal.). However

[7] Sec. 334 (c): "Availability of samples of seized goods prior to trial. The court at any time after seizure up to a reasonable time before trial shall by order allow any party to a condemnation proceeding, his attorney or agent, to obtain a representative sample of the article seized, and as regards fresh fruits or fresh vegetables, a true copy of the analysis on which the proceeding is based and the identifying marks or numbers, if any, of the packages from which the samples analyzed were obtained."

that may be, in the case at bar it had not been proven that the libellant knew or had reasonable cause to know that Memmoli would claim the privilege when he took the stand. Hence there was no error in calling him to the stand. After he had claimed the privilege, in response to the third question put to him it was apparent that he would continue to claim it. Nevertheless, counsel for the Government propounded a series of increasingly pointed questions as to each of which the privilege could be, and was, claimed. Had this been done over the claimant's protest, it might have been error serious enough to require reversal. As to that, we need not say; for here, the claimant allowed the questions to go on without a whisper of objection and then moved for a mistrial. The victim of alleged prejudice cannot be allowed to nurse it along to the point of reversibility and then take advantage of a situation which by his silence he has helped to create. See *Morrow* v. *United States*, 7 Cir. 101 F. 2d 654, 658, cert. den. 307 U. S. 628; *Louisville R. Co.* v. *Masterson*, 96 S. W. 534 (Ky.). The motion for a mistrial was properly denied. In his charge Judge Hincks handled the matter as well as may be done by admonition; he instructed the jury that Memmoli's 'reluctance to incriminate himself may not be used to incriminate others * * *.' The situation, then, is just as though Memmoli had never been called.

"7. Exclusion of evidence: There was no error in excluding chemical reports as to the goods seized in Philadelphia. They were irrelevant without proof that the Philadelphia shipments came from the same 'mix' as any of the seized Connecticut shipments.

"8. The charge: The contention that the charge was biased and unfair is wholly unjustified. Nor was there error in refusing the request to charge that a mere preponderance of the evidence is insufficient to prove the charge. This is a civil proceeding in which the usual rule as to burden of proof prevails. *United States* v. *Regan*, 232 U. S. 37; *Lilienthal's Tobacco* v. *United States*, 97 U. S. 237, 266–7; *Boxes of Opium* v. *United States* (C. C. Cal.), 23 F. 367, 396; *cf. Van Camp Sea Food Co.* v. *United States*, 3 Cir., 82 F. 2d 365.

"9. Claimant's remaining assignments of error do not require discussion; examination reveals them to be without merit.

"*Judgment affirmed.*"

On May 29, 1950, the claimant's petition for a writ of certiorari to the Supreme Court of the United States was denied. The claimant then filed a motion to retax costs; and on June 2, 1950, the district court handed down the following opinion granting the claimant's motion in part and denying it in part, and retaxing costs:

HINCKS, *District Judge:* "This action was brought under the Federal Food, Drug and Cosmetic Act, 21 U. S. C. 301, et seq., and a decree of condemnation was entered on April 1, 1949. Costs were taxed by the Clerk, and the claimant has moved that they be corrected in certain respects. The specific objections to the Clerk's taxation will be considered in the order stated in claimant's brief. Sections of Title 28 U. S. C. hereinafter cited are those which were in effect on September 1, 1948, and prior to the 1949 amendments, since this was the law applicable when the costs accrued.

"Claimant contends that the subsistence fees of $16.50 taxed for witness Damasiewicz for 2¾ days, and $3.00 taxed for witness Jacobson for one half day were erroneously based upon a subsistence fee of $6.00 per day under 28 U. S. C. Sec. 1823, rather than a subsistence fee of $3.00 per day under 28 U. S. C. Sec. 1821. The latter section was applicable since neither witness was a government employee (Tr. 264, 280). This objection is well taken.

"Claimant next contends that the travel and attendance fees of $10.10 taxed for witness DiCarlo, who was neither sworn nor called by the Government, were improper. 28 U. S. C. Sec. 1821, as the Government points out, does not require testimony of a witness as a condition of taxing the cost of his presence, but specifies that an 'attending' witness shall be paid. True, when witnesses are supoenaed but do not testify, a presumption arises that their testimony was not material and if the presumption is not rebutted, costs will not be taxed against the losing party, although the matter lies within the discretion of the court. *U. S.* v. *Lee*, 107 F. 2d 522 (CA 9), cert. den. 309 U. S. 659; *Federal Bank* v. *Mitchell*, 38 F. 2d 824. But here the court has before it the affidavit of the U. S. Attorney filed pursuant to 28 U. S. C. Sec.

1924, listing DiCarlo's name separately opposite the amount and stating that the costs shown have been necessarily incurred. In the *Lee* case, supra, cited by the claimant, the court on a supposedly similar 'duly verified statement of the district attorney' held the presumption rebutted and taxed the expenses of non-testifying government witnesses against the claimant. I feel that the presumption has been rebutted here, and there being no showing by the movant that no *bona fide* reason existed for DiCarlo's presence, I overrule this objection.

"The breakdown of witness expenses originally furnished claimant's counsel by the government incorrectly listed witness Bassen's travel expenses as $32.42. This item should have been $43.12, which makes the amount of $55.42, as taxed by the Clerk, correct.

"Claimant contends that since witnesses Dolke, Williams, Bassen and Damasiewicz came without subpoena from a distance of more than 100 miles from the courthouse, travel fees were erroneously taxed. 21 U. S. C. Sec. 337 (Sec. 307 of the Food & Drug Act) is applicable here, and it places no hundred-mile limitation upon the reach of the Court's subpoena. *Friedman* v. *Washburn Co.*, 155 F. 2d 959, cited by the claimant, was decided under former 28 U. S. C. Sec. 654, repealed by the new judicial code. Cf. F. R. C. P. 45 (e) (1). There being no hundred-mile restriction, the travel fees were properly taxed against the claimant.

"Claimant next contends that 'subsistence fees for witnesses are permissible only where the witness is unable to return home on the same day.' But under 28 U. S. C. Sec. 1821 this principle applies only to witnesses who are not government employees, and the claimant names ten witnesses, eight of whom were government employees and covered by Sec. 1823. As to witnesses Jacobson and Damasiewicz only, the objection is well taken and no subsistence should have been taxed for fractions of days.

"Although, as claimant further contends, witness Dolke was present in court on one day only, he came from Rochester, N. Y., and was properly allowed travel time under Sec. 1821. Travel fees were taxable on account of witnesses Geller and Memmoli, at five cents per mile, under Sec. 1821. These were taxed at $16.60 and $17.60 respectively. Claimant has made no showing that this was excessive, and it is not the task of the court to ascertain the correct mileage. These objections are overruled.

"In connection with the U. S. Marshal's fees complained of, there is no showing that such fees were diminished by the consolidation of the five actions into one. These costs should stand as taxed.

"Claimant contends that no fees should be allowed for government employees who appeared as voluntary witnesses. This contention is based upon a construction of the word 'summoned' in Sec. 1823 to mean 'subpoenaed,' rendering the section inapplicable to voluntary witnesses. No authority is cited for so narrow a construction of the section, and I have found none. Under Paragraphs 604 and 604(a) of former Title 28, from which Sec. 1823 is derived, the decisions made no distinction between voluntary and subpoenaed government-employee witnesses (see *Gleckman* v. *U. S.*, 80 F. 2d 394, 403–4, and cases cited), and the Reviser's Notes to Sec. 1823 mention no intended change. There is no basis for the distinction sought to be made by the claimant here and I hold that the word 'summoned' in Section 1823 means only 'brought on' and includes witnesses appearing at the request of the government even though not served with subpoena. As for claimant's contention that Sec. 1823 makes witness expenses payable out of a special fund and thus not taxable as costs, it seems plain that the provision referred to, pertaining to the obligation of the government to the employee-witness, has nothing to do with the taxation of costs against the losing party to reimburse the government for its payment.

"Finally, claimant contends that costs may not now be taxed since the decree has been entered, affirmed, and certiorari is pending. But the last sentence of Sec. 1920 provides that a bill of costs 'shall be filed' and 'upon allowance' be included in the decree. This clear mandate has no reference to pending appeals, and although the costs need not be paid until the outcome of the appeal is finally determined, the court has jurisdiction to determine what costs should be allowed and included in the decree of condemnation.

"The motion is therefore granted in part and denied in part, and costs should be retaxed in accordance with the foregoing."

16741. Adulteration and misbranding of oil. U. S. v. Albert Alonge and Michael Alonge (Campagnola Packing Co.), and Loumen Drug Co. Pleas of guilty. Albert Alonge and Michael Alonge sentenced to 1 year in jail; sentence suspended and individual defendants placed on probation. Loumen Drug Co. fined $1,000. (F. D. C. No. 26787. Sample No. 9892–K.)

INDICTMENT RETURNED: March 29, 1949, Eastern District of New York, against Albert Alonge and Michael Alonge, partners in the Campagnola Packing Co., and against the Loumen Drug Co., a corporation, Brooklyn, N. Y.

VIOLATION CHARGED: On or about February 6, 1948, the defendants shipped and caused to be shipped from the State of New York into the State of New Jersey, a quantity of edible oil. In addition, the Loumen Drug Co. was charged with having delivered between the approximate dates of July 1947 and February 6, 1948, to the Campagnola Packing Co., a substance known as "squalene" for the purpose of aiding, abetting, counseling, inducing, and procuring the interstate shipment of the adulterated and misbranded oil.

LABEL, IN PART: "Campagnola 80% Choicest Quality Peanut Oil 20% Pure Imported Olive Oil Distributed By Campagnola Packing Co. New York, N. Y."

NATURE OF CHARGE: Count 1. Adulteration, Section 402 (b) (1), olive oil, a valuable constituent, had been in whole or in part omitted from the product; and, Section 402 (b) (4), artificial flavor and squalene had been added to the product and mixed and packed with it so as to make it appear to be better and of greater value, namely, an article containing more olive oil than was actually present.

Count 2. Misbranding, Section 403 (a), the label statements "80% Choicest Quality Peanut Oil" and "20% Pure Imported Olive Oil" were false and misleading since the product did not contain 20 percent of pure imported olive oil; and, Section 403 (k), the product contained an artificial flavoring and did not bear labeling stating that fact.

DISPOSITION: May 22, 1949. Pleas of guilty having been entered by Albert Alonge and Michael Alonge to counts 1 and 2, the court sentenced each defendant to 1 year in jail on each count, with the sentences to run concurrently; however, the sentences were suspended, and the defendants were placed on probation. A plea of guilty having been entered on behalf of the Loumen Drug Co. to count 1, the court fined the corporate defendant $1,000.

16742. Adulteration and misbranding of oil. U. S. v. Benny Di Carlo (Di Carlo Importing Co.), and Loumen Drug Co. Pleas of guilty. Benny Di Carlo sentenced to 1 year in jail; sentence suspended and defendant placed on probation. Loumen Drug Co. fined $1,000. (F. D. C. No. 26790. Sample No. 8117–K.)

INDICTMENT RETURNED: March 29, 1949, Eastern District of New York, against Benny Di Carlo, trading as the Di Carlo Importing Co., Brooklyn, N. Y., and against the Loumen Drug Co., a corporation, Brooklyn, N. Y.

VIOLATION CHARGED: On or about March 23, 1948, the defendants shipped and caused to be shipped from the State of New York into the State of Connecticut, a quantity of edible oil. In addition, the Loumen Drug Co. was charged with having delivered to Benny Di Carlo, between the approximate dates of July 1947 and March 23, 1948, a substance known as "squalene," for the purpose

of aiding, abetting, counseling, inducing, and procuring the interstate shipment of the adulterated and misbranded oil.

LABEL, IN PART: "Aquila Brand Sublime Edible Oil Supreme Quality 22% Italian Olive Oil 78% Pure Peanut Oil Distributors Di Carlo Importing Co. Brooklyn, N. Y."

NATURE OF CHARGE: Count 1. Adulteration, Section 402 (b) (1), olive oil, a valuable constituent, had been in whole or in part omitted from the product; and, Section 402 (b) (4), artificial flavor, artificial color, and squalene had been added to the product and mixed and packed with it so as to make it appear to be better or of greater value, namely, an article containing more olive oil than was actually present.

Count 2. Misbranding, Section 403 (a), the label statements "22% Italian Olive Oil" and "78% Pure Peanut Oil" were false and misleading since the product did not contain 22 percent of Italian olive oil; and, Section 403 (k), the product contained an artificial flavoring and did not bear labeling stating that fact.

DISPOSITION: June 2, 1950. Benny Di Carlo having entered a plea of guilty to counts 1 and 2, the court sentenced him to 1 year in jail on each count, with the sentences to run concurrently; however, the sentences were suspended, and the defendant was placed on probation. A plea of guilty having been entered on behalf of the Loumen Drug Co. to count 2, the court fined the corporation $1,000.

16743. Adulteration and misbranding of oil. U. S. v. Joseph Lentini (Lentini Olive Oil Packing Co.), and Loumen Drug Co. Pleas of guilty. Joseph Lentini sentenced to 1 year in jail; sentence suspended and defendant placed on probation. Loumen Drug Co. fined $1,000. (F. D. C. No. 26788. Sample Nos. 8093–K, 8144–K.)

INDICTMENT RETURNED: March 29, 1949, Eastern District of New York, against Joseph Lentini, trading as the Lentini Olive Oil Packing Co., and against the Loumen Drug Co., a corporation, Brooklyn, N. Y.

VIOLATION CHARGED: On or about January 13, 1948, the defendants shipped and caused to be shipped from the State of New York into the State of Connecticut, a quantity of edible oil. In addition, the Loumen Drug Co. was charged with having delivered to Joseph Lentini, between the approximate dates of July 1947 and January 13, 1948, a substance known as "squalene," for the purpose of aiding, abetting, counseling, inducing, and procuring the interstate shipment of the adulterated and misbranded oil.

LABEL, IN PART: "Angelus 80% Peanut Oil 20% Pure Olive Oil Packed By Lentini Olive Oil Packing Co. Brooklyn, N. Y.

NATURE OF CHARGE: Count 1. Adulteration, Section 402 (b) (1), olive oil, a valuable constituent, had been in whole or in part omitted from the product; and, Section 402 (b) (4), artificial flavor and squalene had been added to the product and mixed and packed with it so as to make it appear to be better and of greater value, namely, a product containing more olive oil than was actually present.

Count 2. Misbranding, Section 403 (a), the label statements "80% Peanut Oil" and "20% Pure Olive Oil" were false and misleading since the product did not contain 20 percent of pure olive oil; and, Section 403 (k), the product contained an artificial flavoring and did not bear labeling stating that fact.

DISPOSITION: June 2, 1950. Joseph Lentini having entered a plea of guilty to counts 1 and 2, the court sentenced him to 1 year in jail on each count, with the sentences to run concurrently; however, the sentences were suspended, and the defendant was placed on probation. A plea of guilty having been entered on behalf of the Loumen Drug Co. to count 1, the court fined the corporation $1,000.

16744. **Adulteration and misbranding of oil. U. S. v. Gaspare Nardini (Vita Edible Oil Co.), and Loumen Drug Co. Pleas of guilty. Gaspare Nardini sentenced to 1 year in jail; sentence suspended and defendant placed on probation. Loumen Drug Co. fined $1,000.** (F. D. C. No. 26786. Sample No. 8030–K.)

INDICTMENT RETURNED: March 29, 1949, Eastern District of New York, against Gaspare Nardini, a partner in the partnership of the Vita Edible Oil Co., and against the Loumen Drug Co., a corporation, Brooklyn, N. Y.

VIOLATION CHARGED: On or about November 27, 1947, the defendants shipped and caused to be shipped from the State of New York into the State of Connecticut, a quantity of edible oil. In addition, the Loumen Drug Co. was charged with having delivered to the Vita Edible Oil Co., between the approximate dates of July 1947 and November 27, 1947, a substance known as "squalene," for the purpose of aiding, abetting, counseling, inducing, and procuring the interstate shipment of the adulterated and misbranded oil.

LABEL, IN PART: "Vita Bella Brand Oil 80% Selected Peanut Oil 20% Pure Olive Oil Packed and Distributed By Vita Edible Oil Co. Brooklyn, N. Y."

NATURE OF CHARGE: Count 1. Adulteration, Section 402 (b) (1), olive oil, a valuable constituent, had been in whole or in part omitted from the product; and, Section 402 (b) (4), artificial flavor and squalene had been added to the product and mixed and packed with it so as to make it appear to be better and of greater value, namely, a product containing more olive oil than was actually present.

Count 2. Misbranding, Section 403 (a), the label statements "80% Selected Peanut Oil" and "20% Pure Olive Oil" were false and misleading since the product did not contain 20 percent of pure olive oil; and, Section 403 (k), the product contained an artificial flavoring and did not bear labeling stating that fact.

DISPOSITION: June 2, 1950. Gaspare Nardini having entered a plea of guilty to counts 1 and 2, the court sentenced him to 1 year in jail on each count, with the sentences to run concurrently; however, the sentences were suspended, and the defendant was placed on probation. A plea of guilty having been entered on behalf of the Loumen Drug Co. to count 2, the court fined the corporation $1,000.

16745. **Adulteration and misbranding of oil. U. S. v. Frank Rinaldi and Anthony F. Rinaldi (Bella Donna Packing Co.), and Loumen Drug Co. Pleas of guilty. Frank Rinaldi and Anthony F. Rinaldi sentenced to 1 year in jail; sentences suspended and defendants placed on probation. Loumen Drug Co. fined $1,000.** (F. D. C. No. 26789. Sample No. 8134–K.)

INDICTMENT RETURNED: March 29, 1949, Eastern District of New York, against Frank Rinaldi and Anthony F. Rinaldi, partners in the Bella Donna Packing Co., a partnership, and the Loumen Drug Co., a corporation, Brooklyn, N. Y.

VIOLATION CHARGED: On or about April 16, 1948, the defendants shipped and caused to be shipped from the State of New York into the State of Connecticut, a quantity of edible oil. In addition, the Loumen Drug Co. was charged with having delivered to the Bella Donna Packing Co., between the approximate dates of July 1947 and April 16, 1948, a substance known as "squalene," for the purpose of aiding, abetting counseling, inducing, and procuring the interstate shipment of the adulterated and misbranded oil.

LABEL, IN PART: "Rinaldi Brand 80% Peanut Oil — 20% Pure Olive Oil Packed By Bella Donna Packing Co. Brooklyn, N. Y."

NATURE OF CHARGE: Count 1. Adulteration, Section 402 (b) (1), olive oil, a valuable constituent, had been in whole or in part omitted from the product; and, Section 402 (b) (4), artificial flavor and squalene had been added to the product and mixed and packed with it so as to make it appear to be better and of greater value, namely, a product containing more olive oil than was actually present.

Count 2. Misbranding, Section 403 (a), the label statements "80% Peanut Oil — 20% Pure Olive Oil" were false and misleading since the product did not contain 20 percent of pure olive oil; and, Section 403 (k), the product contained an artificial flavoring and did not bear labeling stating that fact.

DISPOSITION: June 2, 1950. Pleas of guilty having been entered by Frank Rinaldi and Anthony F. Rinaldi to counts 1 and 2 of the indictment, the court sentenced each defendant to 1 year in jail on each count, with the sentences to run concurrently; however, the sentences were suspended, and the defendants were placed on probation. A plea of guilty having been entered on behalf of the Loumen Drug Co. to count 2 of the indictment, the court fined the corporation $1,000.

16746. Adulteration and misbranding of oil. U. S. v. Santuzza Oil Co., Inc., and Loumen Drug Co. Pleas of guilty. Santuzza Oil Co., Inc., fined $12,000. Loumen Drug Co. fined $1,000. (F. D. C. No. 26792. Sample Nos. 2723–K, 2724–K, 4890–K, 6124–K, 8141–K, 8190–K, 9377–K, 12429–K, 12445–K, 12858–K, 45701–K, 45703–K.)

INDICTMENT RETURNED: March 29, 1949, Eastern District of New York, against Santuzza Oil Co., Inc., and the Loumen Drug Co., also a corporation, Brooklyn, N. Y.

VIOLATION CHARGED: Between the approximate dates of March 9, 1948, and August 31, 1948, the defendants shipped and caused to be shipped from the State of New York into the District of Columbia and the States of Ohio, Connecticut, New Jersey, Massachusetts, Pennsylvania, and Missouri, quantities of edible oil. In addition, the Loumen Drug Co. was charged with having delivered to the Santuzza Oil Co., Inc., between the approximate dates of July 1947 and June 8, 1948, a substance known as "squalene," for the purpose of aiding, abetting, counseling, inducing, and procuring the interstate shipment of the adulterated and misbranded oil.

LABEL, IN PART: "Santuzza Brand A Blend Of 80% Corn And Peanut Oil 20% Pure Olive Oil" and "America's Finest Brand Oil Of Delicious Flavor A Blend Of 90% Peanut Oil And 10% Pure Olive Oil."

NATURE OF CHARGE: Count 1. Adulteration, Section 402 (b) (1), olive oil, a valuable constituent, had been in whole or in part omitted from the product; and, Section 402 (b) (4), artificial flavor and squalene had been added to the product and mixed and packed with it so as to make it appear to be better

and of greater value, namely, a product containing more olive oil than was actually present.

Counts 2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, and 24. Misbranding, Section 403 (a), the label statements "A Blend Of 80% Corn And Peanut Oil 20% Pure Olive Oil" and "A Blend Of 90% Peanut Oil And 10% Pure Olive Oil" were false and misleading since the product did not contain, respectively, 20 percent and 10 percent of pure olive oil; and, Section 403 (k), the product contained an artificial flavoring and did not bear labeling stating that fact.

DISPOSITION: June 2, 1950. Pleas of guilty having been entered on behalf of the Santuzza Oil Co., Inc., as to counts 2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, and 24, and the Loumen Drug Co. as to count 1, the court fined the former $12,000 and the latter $1,000.

16747. Adulteration and misbranding of oil. U. S. v. Keystone Grocery Distributing Co. of Pittsburgh, Inc., and Antonio Certo. Pleas of guilty. Antonio Certo fined $100, plus costs; charges against corporation nolled. (F. D. C. No. 25287. Sample Nos. 18215–K, 19211–K, 19212–K.)

INDICTMENT RETURNED: September 23, 1948, Western District of Pennsylvania, against Keystone Grocery Distributing Co. of Pittsburgh, Inc., Pittsburgh, Pa., and Antonio Certo, president.

ALLEGED SHIPMENT: On or about October 20 and 22, 1947, from the State of Pennsylvania into the State of Ohio.

LABEL, IN PART: "One Gallon Fortebraccio Brand A Pure Blend of 80% Cotton Seed Oil, Corn Oil and 20% Olive Oil. Keystone Grocery Distributing Co. of Pittsburgh, Inc. Pittsburgh, Pa." and "Fortebraccio Brand E' Prodotto Dalla Migliore Qualita' D'Olio. Ed E' Preparato Con Massime Cure E' Specialmente Raccomandato: Per Cucinare Per Le Insalate E Per Fritture."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), an artificially flavored mixture of cottonseed and corn oils containing little, if any, olive oil, had been substituted for 80% of cottonseed and corn oils and 20% of olive oil, which the product was represented to be; and, Section 402 (b) (4), artificial flavor had been added to the product and mixed and packed with it so as to make it appear to be a product containing a substantial amount of olive oil, which is better and of greater value than the product.

Misbranding, Section 403 (a), the label statement "A Pure Blend of 80% Cotton Seed Oil, Corn Oil and 20% Olive Oil" was false and misleading; and, Section 403 (f), the information required by law to appear on the label, namely, the statement of the quantity of the contents and the common or usual name of each ingredient of the product, were not prominently placed thereon in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use since the product was intended for sale to, and consumption by, persons of Italian descent by reason of representations on the label in the Italian language; and the statement of the quantity of the contents and the common or usual name of each ingredient of the product were not set forth on the label in the Italian language.

DISPOSITION: May 31, 1950. A plea of guilty having been entered, Antonio Certo was fined $100, plus costs. A nolle prosequi was entered on June 6, 1950, for the Keystone Grocery Distributing Co. of Pittsburgh, Inc., since the corporation had been dissolved.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE

16748. Adulteration and misbranding of multivitamin tablets. U. S. v. 27,500 Multi Vitamin Tablets. (F. D. C. No. 29204. Sample No. 55926–K.)

LIBEL FILED: May 4, 1950, District of Kansas.

ALLEGED SHIPMENT: On or about March 14, 1950, by Crest Laboratories, Inc., from Burbank, Calif.

PRODUCT: 27,500 multivitamin tablets at Mission, Kans.

LABEL, IN PART: (On drum, when shipped) "Multi Vitamin Tablets Each Two Tablets Contain At Least: Vitamin A 10,000 USP Units * * * Vitamin C 150 MGS."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), valuable constitutents, vitamins A and C, had been in whole or in part omitted or abstracted from the product.

Misbranding, Section 403 (a), the label statement "Each Two Tablets Contain At Least: Vitamin A 10,000 USP Units * * * Vitamin C 150 MGS." was false and misleading since the article contained less than the labeled amounts of vitamins A and C.

DISPOSITION: July 7, 1950. Default decree of condemnation and destruction.

16749. Adulteration and misbranding of niacinamide tablets. U. S. v. 35 Cartons * * *. (F. D. C. No. 28688. Sample No. 2136–K.)

LIBEL FILED: January 16, 1950, Eastern District of Virginia.

ALLEGED SHIPMENT: On or about October 26, 1949, by Hance Bros. & White Co., from Philadelphia, Pa.

PRODUCT: 35 cartons, each containing 12 bottles, of niacinamide tablets at Arlington, Va.

LABEL, IN PART: (Bottle) "100 Sugar Coated Tablets Arlvita-Tabs Arlco Each tablet contains: * * * Niacinamide 20 mg."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, niacinamide, had been in whole or in part omitted or abstracted from the article.

Misbranding, Section 403 (a), the label statement "Each tablet contains: * * * Niacinamide 20 mg." was false and misleading since the article contained less than 20 mg. of niacinamide.

DISPOSITION: March 23, 1950. Hance Bros. & White Co., Philadelphia, Pa., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling, under the supervision of the Food and Drug Administration.

16750. Adulteration and misbranding of dry vitamin D_3. U. S. v. 147 Bags * * *. (F. D. C. No. 29508. Sample No. 68877–K.)

LIBEL FILED: August 3, 1950, Western District of Washington.

ALLEGED SHIPMENT: On or about June 22, 1948, from Oakland, Calif.

PRODUCT: 147 50-pound bags of dry vitamin D_3 at Seattle, Wash.

RESULTS OF INVESTIGATION: This product was examined while it was held for sale after shipment in interstate commerce and was found to contain materially less vitamin D than declared on the label.

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, vitamin D, had been in part omitted from the article.

Misbranding, Section 403 (a), the label statement "Guaranteed Not Less Than 900,000 A. O. A. C. Chick Units Of Vitamin D Per Pound" was false and misleading as applied to an article which contained less than that amount of vitamin D.

DISPOSITION: September 6, 1950. Van Waters & Rogers, Inc., Seattle, Wash., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling, under the supervision of the Federal Security Agency.

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[1] (16706, 16710, 16723, 16729) Prosecution contested.

[2] (16738, 16739) Prosecution contested. Contains opinion of the court.

[3] (16740) Seizure contested. Contains opinions of district court and circuit court of appeals.

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[1] (16706, 16710, 16723, 16729) Prosecution contested.
[2] (16738, 16739) Prosecution contested. Contains opinion of the court.
[3] (16740) Seizure contested. Contains opinions of district court and circuit court of appeals.

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[1] (16706, 16710, 16723, 16729) Prosecution contested.
[2] (16738, 16739) Prosecution contested. Contains opinion of the court.

U. S. GOVERNMENT PRINTING OFFICE: 1951

FEDERAL SECURITY AGENCY

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

16751–16800

FOODS

The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Federal Security Agency. Published by direction of the Federal Security Administrator.

PAUL B. DUNBAR, *Commissioner of Food and Drugs.*

WASHINGTON, D. C., *March 23, 1951.*

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BEVERAGES AND BEVERAGE MATERIALS

16751. **Adulteration of coffee sweepings. U. S. v. 391 Bags * * *. Tried to the court. Judgment for Government. Decree of condemnation and destruction.** (F. D. C. No. 27559. Sample No. 11534–K.)

LIBEL FILED: July 8, 1949, Eastern District of New York.

ALLEGED SHIPMENT: The dates of shipment are unknown. Shipments were made from various foreign countries, to New York, N. Y.

PRODUCT: 391 second-hand bags, each containing 100 pounds, of roasted coffee sweepings.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance, and was otherwise unfit for food by reason of the presence of wood splinters, dirt, rodent excreta, and other extraneous material, and because of contamination with polluted sea water.

DISPOSITION: The Lorraine Trading Corp., Brooklyn, N. Y., having appeared as claimant, the matter came on for trial before the court on May 16, 1950, and judgment was entered for the Government. The court handed down the following memorandum opinion, findings of fact, and conclusions of law:

INCH, *District Judge:* "This is a proceeding brought under the Federal Food, Drug and Cosmetic Act (21 U. S. C. A., Sec. 301, *et seq.*) to condemn a certain quantity of roasted coffee contained in bags. The libel alleges that the coffee was adulterated when introduced into, and while in, interstate commerce within the meaning of the Act, in that it consists in whole or in part of a filthy substance, and is otherwise unfit for food by reason of the presence therein of wood splinters, dirt, rodent excreta and other extraneous material and because of contamination with polluted sea water.

"It appears that a concern, Coffette Products, Inc., had been engaged in the manufacture of chemical products, such as detergents, soap, cosmetics, shampoos, dyes, etc., from condemned coffees which were unfit for beverage purposes. In 1944 and 1945 it had purchased various quantities of coffee and stored it at its premises in Brooklyn, where there was a fire in December of 1945. As a result of the fire most of the bags were split open and their contents strewn about the premises and sprayed with water by the Fire Department. After being reprocessed to remove pieces of wood and nails, the coffee was rebagged and again stored in one of the Coffette buildings.

"In 1946 Coffette also purchased two freight carloads of coffee which had been sunk in the Hudson River while being transported on floats of the Pennsylvania Railroad from New York City to a town in Pennsylvania. A health officer of the Jersey City Board of Health testified that the water in which the coffee had been submerged for about two days was tested for bathing purposes and found to be 'highly polluted with sewage.' After the cars were salvaged from the River they were transported to Jersey City and placed under embargo by the Jersey City Board of Health and later released under bond to Coffette for non-food purposes.

"Coffette Products, Inc., thereafter became bankrupt, and at the bankruptcy sale of its assets on June 14, 1949, claimant, Lorraine Trading Corp., purchased 391 bags of the coffee.

"The president of Coffette testified that of these bags, 50 or 60 came from the submerged Pennsylvania Railroad cars, and the remainder was coffee salvaged from the fire. Claimant purchased the coffee for 75¢ a bag, or ¾ of a cent a pound, and there is proof that a sign reading 'Old Bad Coffee' was posted at the sale, and that claimant purchased the coffee knowing it was unfit for human consumption.

"A government chemist testified to the presence in the coffee of dirty and scorched paper, nails, charcoal, wood splinters, glass, metal fragments, small stones, dirt, roasted grains, manure fragments and rodent pellets, all of which were separated from numerous samples of the coffee and placed in cellophane bags and introduced into evidence. In order to show that the coffee had been contaminated with sea-water, the government also presented evidence of chem-

ical tests showing the presence of an excess amount of chlorides in the coffee beans. A number of experts associated with some of the largest coffee concerns in New York City testified on behalf of the government that as a result of 'cup tests' they found the coffee to be damaged, rancid, putrid and unfit for human consumption.

"Claimant's witness, Slomowitz, testified that he purchased the coffee at a private sale immediately after someone at the auction had failed to carry out a bid; that the auctioneer told him the coffee was under the supervision of the 'Pure Food and Drug'; and that he intended to ship the coffee to Belgium, and showed one of the employees of the Pure Food and Drug Administration a letter from a Belgian broker offering to purchase it. Claimant also presented expert testimony by a chemist to the effect that his examination of certain samples did not reveal the presence of any extraneous matter such as wood splinters, dirt or rodent excreta, or any other foreign matter.

"Title 21 U. S. C. A. Sec. 342 provides:

> A food shall be deemed to be adulterated * * * (a) * * * (3) if it consists in whole *or in part of any filthy,* putrid or decomposed *substance, or if it is otherwise unfit for food.* [Emphasis supplied.]

"There can be no doubt that this coffee, with its history of part having been submerged in highly polluted water for two days, and the remainder having been salvaged from a fire, and having present in it the collection of extraneous matter found by the government chemist, is plainly 'adulterated' and unfit for human consumption within the meaning of the Act. The government has more than sustained the burden of proof on that issue.

"Claimant citing *United States* v. *Phelps-Dodge Mercantile Co.*, 9 Cir., 157 F. 2d 453, Cert. denied 330 U. S. 818, contends that this coffee, even if adulterated, was not adulterated 'when introduced into or while in interstate commerce.' Sec. 334 (a) of the Act provides in part:

> Any article of food * * * that is adulterated * * * when introduced into or while in interstate commerce *or while held for sale* (*whether or not the first sale*) *after shipment in interstate commerce* * * * shall be liable to be proceeded against * * *. [Emphasis supplied.]

The italicized clause was added to the statute by the Act of June 24, 1948 (62 Stat. 582), and claimant contends that it should not be deemed to operate retroactively. As for the original provision of the section that it applies to food adulterated 'when introduced into or while in interstate commerce,' claimant says that at the time the coffee was adulterated as a result of the fire in Brooklyn, it was not then in interstate commerce. However, it cannot be overlooked that the 50 or 60 bags of coffee which were contaminated by the waters of the Hudson River were at that time being transported from New York City to a town in Pennsylvania and were thus clearly adulterated 'while in interstate commerce.' Further, after being released by the Jersey City Board of Health, they were shipped to Coffette in Brooklyn, New York, and were adulterated 'when introduced into or while in interstate commerce' at that time. It was proven, and it is admitted in claimant's brief, that those 50 or 60 bags cannot be identified and separated from the lot seized. Thus that part of the libeled coffee which was in an adulterated condition when introduced and while in interstate commerce is substantial enough to warrant condemning the entire lot, particularly since it is inextricably mixed with coffee which was adulterated after shipment in interstate commerce. It therefore, becomes unnecessary to depend upon a retroactive effect, if any, of the 1948 amendment, or the government's application after trial to amend the libel in conformance therewith.

"The other contentions of claimant to the effect that the coffee is not contraband under the Act have been fully examined and found to be without merit.

"Claimant contends that it should be permitted to export the coffee to Belgium under the provisions of Sec. 381 (d). Even were I inclined to permit the export of this coffee to a foreign country, which I am not, it has been held in *United States* v. *Kent Food Corporation*, 2 Cir., 168 F. 2d, 632, that it is beyond the jurisdiction of this Court to allow the exportation of food condemned under the provisions of the Act. (See also: *230 Boxes, More or Less, of Fish* v. *United States*, 6 Cir., 168 F, 2d 360.)

"The government has no objection to claimant being permitted to salvage the coffee under the provisions of Sec. 334 (d), provided that it is used for commercial purposes only and other than food. The coffee will be condemned

forthwith, and unless claimant wishes to accept the government's offer, it will be otherwise disposed of in accordance with the provisions of Sec. 334 (d).

FINDINGS OF FACT

"1. This proceeding was commenced by the filing of a libel on July 8, 1949. Monition was issued on that date and the article was seized by the Marshal on July 13, 1949, in the possession of Bowne Morton Stores, Inc., 595 Smith Street, Brooklyn, New York, to the account of Lorraine Trading Corp., Brooklyn, New York.

"2. Lorraine Trading Corp., a New York corporation, intervened as claimant and owner of the seized article.

"3. The article seized consisted of 391 bags, each containing approximately 100 pounds, of roasted coffee beans.

"4. On June 14, 1949, claimant purchased this coffee at an auction conducted for the sale of the bankrupt stock of Coffette Products, Inc., in Brooklyn, New York.

"5. That the aforesaid coffee contained wood splinters, dirt, rodent excreta and other extraneous material and added chlorides. The presence of much of this extraneous matter resulted from part of the coffee having been salvaged from a fire, and the remainder having been submerged for about two days in polluted sewage water of the Hudson River off Jersey City, New Jersey.

"6. The coffee herein is unfit for food but may be used for commercial purposes.

CONCLUSIONS OF LAW

"1. This Court has jurisdiction of the subject matter of the above-entitled proceeding and of the parties thereto by virtue of 21 U. S. C. 334 (a).

"2. The coffee seized is an article used for drink by man, and is, therefore, a food within the meaning of 21 U. S. C. 321 (f).

"3. The article seized was shipped in interstate commerce within the meaning of 21 U. S. C. 321 (b).

"4. The food seized was adulterated within the meaning of 21 U. S. C. 342 (a) (3) while in interstate commerce.

"5. The food seized is subject to condemnation pursuant to 21 U. S. C. 334 (a), and libellant is entitled under 21 U. S. C. 334 (e) to costs incurred in this proceeding.

"6. If the claimant so desires, it may, by posting good and sufficient bond within ten days from the entry of the decree and payment of costs, salvage the coffee for commercial purposes under the supervision of the Federal Security Agency in accordance with the provisions of 21 U. S. C. 334 (d)."

On May 31, 1950, the court entered a decree providing for the destruction of the product.

16752. Adulteration of coffee sweepings. U. S. v. 34 Bags, etc. (F. D. C. No. 27562. Sample Nos. 56701–K to 56703–K, incl.)

LIBEL FILED: July 8, 1949, Eastern District of New York.

ALLEGED SHIPMENT: On or about February 19 and April 17, 1949, from various foreign countries.

PRODUCT: 34 second-hand burlap bags, each containing approximately 132 pounds, and 21 bags, each containing approximately 145 pounds, of coffee sweepings at Brooklyn, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product was unfit for food by reason of the presence of wood splinters, metal fragments, dirt, and other extraneous material.

DISPOSITION: December 4, 1950. The Lorraine Trading Corp., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for denaturing under the supervision of the Food and Drug Administration, so that it could not be used for human food but could be used for commercial purposes.

CANDY

16753. Adulteration of candy. U. S. v. S. L. Bright (Reliable Candy Co.). Plea of nolo contendere. Fine, $500. (F. D. C. No. 29624. Sample Nos. 61990–K to 61992–K, incl., 76460–K.)

INFORMATION FILED: November 8, 1950, Western District of Tennessee, against S. L. Bright, trading as the Reliable Candy Co., Memphis, Tenn.

ALLEGED SHIPMENT: On or about June 27 and July 3, 1950, from the State of Tennessee into the State of Arkansas.

LABEL, IN PART: "Mazie Bar," "Rainbow Candy Bar," or "P-KO."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insect heads, larvae, insect fragments, and larval cast skins; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: November 14, 1950. A plea of nolo contendere having been entered, the court fined the defendant $500.

16754. Adulteration of candy. U. S. v. 38 Cases * * *. (F. D. C. No. 29258. Sample No. 68894–K.)

LIBEL FILED: June 6, 1950, Western District of Washington.

ALLEGED SHIPMENT: On or about May 8, 1950, by the John Horne Candy Co., from Evanston, Ill.

PRODUCT: 38 cases each containing 100 candy bars at Seattle, Wash.

LABEL, IN PART: "John Horne's Coconut Waffle Net Wt. 1½ Oz."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: September 11, 1950. Default decree of condemnation and destruction.

CEREALS AND CEREAL PRODUCTS

BAKERY PRODUCTS

16755. Adulteration of cinnamon cake, bread, and buns. U. S. v. Fischer's Bakery, Inc., and John Fischer. Pleas of guilty. Corporation fined $600; individual defendant fined $400. (F. D. C. No. 29618. Sample Nos. 52270–K to 52274–K, incl., 52974–K to 52976–K, incl.)

INFORMATION FILED: September 28, 1950, Southern District of Ohio, against Fischer's Bakery, Inc., Cincinnati, Ohio, and John Fischer, president and treasurer of the corporation.

ALLEGED SHIPMENT: On or about May 6, 1950, from the State of Ohio into the State of Kentucky.

LABEL, IN PART: "Fischer's Cinnamon Cake [or "Milk Bread," "Home Made Bread," "Hearth Bread," or "Buns"]."

NATURE OF CHARGE: Adulteration, Section 402 (a) (4), the products had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: October 27, 1950. Pleas of guilty having been entered, the court fined the corporation $600 and the individual defendant $400.

FLOUR

Nos. 16756 to 16760 report actions involving flour that was insect- or rodent-infested, or both. The flour reported in **No. 16761** was short of the declared weight.

16756. Adulteration of flour. U. S. v. 29 Bags, etc. (F. D. C. No. 29750. Sample Nos. 82027–K to 82030–K, incl.)

LIBEL FILED: September 28, 1950, Southern District of Florida.

ALLEGED SHIPMENT: On or about July 21 and 27 and August 8, 1950, from Chattanooga, Tenn., and Enid, Okla.

PRODUCT: Flour. 29 50-pound bags, 26 25-pound bags, and 15 100-pound bags. at Jacksonville, Fla., in possession of Joseph's Imported Foods.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: October 24, 1950. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for use as animal feed.

16757. Adulteration of flour. U. S. v. 16 Bags, etc. (F. D. C. No. 29675. Sample Nos. 57462–K, 57463–K, 74877–K.)

LIBEL FILED: August 3, 1950, District of New Jersey.

ALLEGED SHIPMENT: On or about May 4, 23, 26, and 27, and June 22, 1950, from Buffalo, N. Y., and Treichlers, Pa.

PRODUCT: 45 100-pound bags of flour at Union City, N. J.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects and insect fragments. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: October 2, 1950. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for use as stock feed.

16758. Adulteration of phosphated flour, self-rising flour, and biscuit and pastry flour. U. S. v. 38 Bags, etc. (F. D. C. No. 29706. Sample Nos. 54649–K to 54653–K, incl.)

LIBEL FILED: September 5, 1950, Western District of Louisiana.

ALLEGED SHIPMENT: On or about April 21 and May 3, 11, 16, and 26, 1950, from Buhler, Kans., and Yukon, Okla.

PRODUCT: 38 50-pound bags and 500 10-pound bags of phosphated flour, 98 50-pound bags and 480 10-pound bags of self-rising flour, and 63 50-pound bags and 100 25-pound bags of biscuit and pastry flour, at Monroe, La.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of insects.

The articles were adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: October 12, 1950. The Drew Grocer Co., Monroe, La., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the products be released under bond to be denatured for use as animal feed, under the supervision of the Food and Drug Administration.

16759. Adulteration of enriched flour and self-rising flour. U. S. v. 44 Bags, etc. (F. D. C. No. 29704. Sample Nos. 81929–K, 82005–K, 82006–K.)

LIBEL FILED: August 28, 1950, Eastern District of South Carolina.

ALLEGED SHIPMENT: On or about June 1, August 22, and November 14, 1949, and May 3, 1950, from Knoxville, Tenn.

PRODUCT: 44 50-pound bags of enriched flour and 8 100-pound bags and 10 50-pound bags of self-rising flour at Florence, S. C.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of insects. The articles were adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: October 27, 1950. Default decree of condemnation and destruction.

16760. Adulteration of self-rising flour and blended wheat and rye flour. U. S. v. 16 Bags, etc. (F. D. C. No. 29703. Sample Nos. 81928–K, 82004–K.)

LIBEL FILED: August 30, 1950, Eastern District of South Carolina.

ALLEGED SHIPMENT: On or about April 25 and June 12, 1950, from Louisville, Ky., and St. Louis, Mo.

PRODUCT: 16 100-pound bags of self-rising flour and 16 100-pound bags of blended wheat and rye flour at Florence, S. C.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of insects. The articles were adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: October 27, 1950. Default decree of condemnation and destruction.

16761. Misbranding of flour. U. S. v. 300 Bags, etc. (F. D. C. No. 29381. Sample No. 71039–K.)

LIBEL FILED: July 12, 1950, District of Arizona.

ALLEGED SHIPMENT: On or about June 9, 1950, by the Pueblo Flour Mills Co., from Pueblo, Colo.

PRODUCT: Flour. 300 sacks, each purporting to contain 50 pounds, and 50 sacks, each purporting to contain 100 pounds, at Flagstaff, Ariz.

LABEL, IN PART: "Bleached Major C Flour 100 [or "50"] lbs. Net Wt."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the product was a food in package form and failed to bear a label containing an accurate statement of the quantity of the contents. (Examination showed that the product was short of the declared weight.)

DISPOSITION: On or about August 21, 1950, the Colorado Milling & Elevator Co., Denver, Colo., trading as the Pueblo Flour Mills Co., claimant, having con-

sented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be repackaged to the declared weight, under the supervision of the Food and Drug Administration. On August 31, 1950, an amended decree was entered ordering the product converted into animal feed.

MISCELLANEOUS CEREALS

16762. Adulteration of unpopped popcorn. U. S. v. Ralph J. Kem (Indiana Pop Corn Co.). Plea of nolo contendere. Fine, $300. (F. D. C. No. 29617. Sample Nos. 42609–K, 42610–K, 52350–K, 77502–K, 77503–K, 84124–K.)

INFORMATION FILED: September 29, 1950, Southern District of Indiana, against Ralph J. Kem, trading as the Indiana Pop Corn Co., Muncie, Ind.

ALLEGED SHIPMENT: On or about October 17 and 18, 1949, and March 16 and 17, 1950, from the State of Indiana into the States of Illinois, Tennessee, and Ohio.

LABEL, IN PART: (Portion, can) "Pop-ity-Pop [or "Hoosier Pride"] * * * Pop Corn Commercially Processed By The Indiana Pop Corn Co. Muncie, Indiana."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of live and dead beetles, insects and insect fragments, insect excreta and eggs, rodent hairs and rodent hair fragments, and mouse pellets; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: November 10, 1950. A plea of nolo contendere having been entered, the court imposed a fine of $300.

16763. Adulteration of rice. U. S. v. 500 Bags * * *. (F. D. C. No. 29713. Sample Nos. 35549–K to 35551–K, incl.)

LIBEL FILED: August 30, 1950, Southern District of New York.

ALLEGED SHIPMENT: On or about August 4, 1950, by the Rice Growers Assn. of California, West Sacramento, Calif.

PRODUCT: 500 100-pound bags of rice at New York, N. Y.

LABEL, IN PART: "Sello Rojo Arroz De California Cosechado Per Rice Growers Ass'n. of California Elaboracion Especial Para Puerto Rico."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and insect parts; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: October 25, 1950, The Trident Brokerage Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be denatured by mixing with fish meal, under the supervision of the Food and Drug Administration.

DAIRY PRODUCTS

BUTTER

The following cases report actions involving butter that consisted in whole or in part of a filthy or decomposed substance, **No. 16764**; that was below the

legal standard for milk fat content, **Nos. 16764 to 16766**; and that was short of the declared weight, **No. 16766.**

16764. Adulteration of butter. U. S. v. Parkston Creamery Co. Plea of guilty. Fine, $50. (F. D. C. No. 29648. Sample No. 75774–K.)

INFORMATION FILED: November 14, 1950, District of South Dakota, against the Parkston Creamery Co., a corporation, Parkston, S. Dak.

ALLEGED SHIPMENT: On or about June 23, 1950, from the State of South Dakota into the State of Illinois.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of insect and fly fragments, manure, feather fragments, and rodent hairs; Section 402 (b) (1), a valuable constituent, milk fat, had been in part omitted from the article; and, Section 402 (b) (2), an article which contained less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: December 1, 1950. A plea of guilty having been entered, the court imposed a fine of $50.

16765. Adulteration of butter. U. S. v. William P. Langenfeld (Langenfeld Dairy Products Co.). Plea of guilty. Fine, $25. (F. D. C. No. 28200. Sample No. 7781–K.)

INFORMATION FILED: December 1, 1950, District of South Dakota, against William P. Langenfeld, trading as the Langenfeld Dairy Products Co., Watertown, S. Dak.

ALLEGED SHIPMENT: Between the approximate dates of October 7 and 17, 1949, from the State of South Dakota into the State of New York.

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent of the product, milk fat, had been in part omitted; and Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: December 1, 1950. A plea of guilty having been entered, the court fined the defendant $25.

16766. Adulteration and misbranding of butter. U. S. v. Albert M. Feiner (Ethan Dairy Products). Plea of guilty. Fine, $50. (F. D. C. No. 29649. Sample No. 89815–K.)

INFORMATION FILED: November 16, 1950, District of South Dakota, against Albert M. Feiner, trading as Ethan Dairy Products, Ethan, S. Dak.

ALLEGED SHIPMENT: On or about August 1, 1950, from the State of South Dakota into the State of Iowa.

LABEL, IN PART: (Portion) "One Pound Net Weight K Brand Creamery Butter Distributed By Iowa-Nebraska Produce Co. Sioux City, Iowa." The remainder was unlabeled.

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent of the product, milk fat, had been in part omitted; and, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents since the packages

that were labeled contained less than the declared "One Pound Net Weight," and the wrappers enclosing the remainder of the product bore no statement of the quantity of the contents.

DISPOSITION: December 7, 1950. A plea of guilty having been entered, the court fined the defendant $50.

CHEESE

16767. Adulteration of grated cheese. U. S. v. N. J. Nassikas, Inc. Plea of guilty. Fine, $500. (F. D. C. No. 29630. Sample Nos. 79318–K, 79324–K, 79436–K, 79762–K.)

INFORMATION FILED: November 10, 1950, District of Vermont, against N. J. Nassikas, Inc., Barton, Vt.

ALLEGED SHIPMENT: On or about February 8, March 1, and May 11 and 18, 1950, from the State of Vermont into the States of New Hampshire and Massachusetts.

LABEL, IN PART: "Nassikas Grated Cheese 155 Lake Ave. Manchester, N. H."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of rodent hair fragments and insect fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: November 27, 1950. A plea of guilty having been entered, the court fined the defendant $500.

16768. Misbranding of creamed cottage cheese. U. S. v. Beatrice Foods Co. Plea of guilty. Fine, $900. (F. D. C. No. 29641. Sample Nos. 75021–K, 75258–K, 75309–K.)

INFORMATION FILED: November 6, 1950, District of Colorado, against the Beatrice Foods Co., a corporation, Greeley, Colo.

ALLEGED SHIPMENT: On or about July 19 and 27 and August 3, 1950, from the State of Colorado into the State of Wyoming.

LABEL, IN PART: "Meadow Gold Dairy Greeley, Colo. Pasteurized Creamed Cottage Cheese Net Wt. 12 Oz."

NATURE OF CHARGE: Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for creamed cottage cheese since it contained less than 4 percent by weight of milk fat; and, Section 403 (e) (2), (1 shipment) the product failed to bear a label containing an accurate statement of the quantity of the contents since the cartons bore the statement "12 Oz.," and they contained less than 12 ounces of the food.

DISPOSITION: November 14, 1950. A plea of guilty having been entered, the court fined the defendant $900.

16769. Adulteration and misbranding of cream cheese. U. S. v. 11 Boxes, etc. (F. D. C. No. 29384. Sample No. 79657–K.)

LIBEL FILED: July 5, 1950, District of Massachusetts.

ALLEGED SHIPMENT: On or about June 19, 1950, by Lyndonville Creamery, Inc., from Lyndonville, Vt.

PRODUCT: Cream cheese. 11 boxes, each containing 6 6-ounce packages, and 20 boxes, each containing 6 3-ounce packages, at Boston, Mass.

LABEL, IN PART: (Package) "Extra Quality Cream Cheese Speedwell Farms Full Cream."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product deficient in milk fat and containing excessive moisture had been substituted in whole or in part for cream cheese, which the product was represented to be.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for cream cheese since it contained less than 33 percent of milk fat and more than 55 percent of moisture.

DISPOSITION: August 22, 1950. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution. However, the United States marshal found that the product had become rancid, and it was destroyed.

FEEDS AND GRAINS

16770. Adulteration of soybean oil meal. U. S. v. Owensboro Grain Co., Inc. Plea of nolo contendere. Fine of $900, plus costs. (F. D. C. No. 29188. Sample Nos. 7787–K, 39280–K, 48666–K, 52345–K, 52936–K, 66915–K.)

INFORMATION FILED: June 29, 1950, Western District of Kentucky, against Owensboro Grain Co., Inc., Owensboro, Ky.

ALLEGED SHIPMENT: On or about August 9, October 21, 25, 28, and 31, and November 3, 1949, from the State of Kentucky into the States of New York, Maryland, Indiana, New Jersey, and Tennessee.

LABEL, IN PART: (Bags, 5 shipments) "Greendale 41% Protein Soy Bean Oil-meal * * * Ingredients: Ground Soy Bean Oil Cake." One shipment consisted of a bulk carload lot.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a mixture of soybean oil meal and calcium carbonate had been substituted for soybean oil meal, which the product was represented to be.

DISPOSITION: September 20, 1950. A plea of nolo contendere having been entered, the court fined the defendant $900, plus costs.

16771. Misbranding of cottonseed meal. U. S. v. Tornillo Cotton Oil Co. Plea of guilty. Fine, $400. (F. D. C. No. 29174. Sample No. 69911–K.)

INFORMATION FILED: May 24, 1950, Western District of Texas, against the Tornillo Cotton Oil Co., a corporation, Tornillo, Tex.

ALLEGED SHIPMENT: On or about December 8, 1949, from the State of Texas into the State of Kansas.

LABEL, IN PART: "100 Pounds (Net) 41% Protein Cottonseed Flakes Prime Quality Manufactured By Tornillo Cotton Oil Company Tornillo, Texas Guaranteed Analysis Crude Protein not less than 41.00 Per Cent."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label statements "41% Protein Cottonseed Flakes" and "Crude Protein not less than 41.00 Per Cent" were false and misleading since the product contained less than 41 percent of protein.

DISPOSITION: November 21, 1950. A plea of guilty having been entered, the court fined the corporation $400.

16772. Adulteration and misbranding of dog food. U. S. v. 69 Cases * * *. (F. D. C. No. 29518. Sample No. 38744–K.)

LIBEL FILED: August 7, 1950, Northern District of Ohio.

ALLEGED SHIPMENT: On or about January 13 and April 4, 1950, by the Michigan Dog Food Sales Co., from Center Line, Mich.

PRODUCT: 69 cases, each containing 24 cans, of dog food at Chagrin Falls, Ohio. Analysis showed that the product contained approximately 5.37 percent of protein.

LABEL, IN PART: "LMN-Tary Dog Food 3 Diets Analysis Protein, Minimum 10.0% Contents 15½ Ounces."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, protein, had been in part omitted from the article.

Misbranding, Section 403 (a), the label designation "Protein, Minimum 10.0%" was false and misleading.

DISPOSITION: September 6, 1950. Default decree of condemnation and destruction.

FISH AND SHELLFISH

16773. Adulteration of frozen flounder fillets. U. S. v. 75 Boxes * * *. (F. D. C. No. 29749. Sample No. 80204–K.)

LIBEL FILED: September 26, 1950, District of Massachusetts.

ALLEGED SHIPMENT: On or about September 15, 1950, by J. Adams' & Co., Inc., from Corea, Maine.

PRODUCT: 75 boxes, each containing 10 5-pound cartons, of frozen flounder fillets at Boston, Mass.

LABEL, IN PART: (Carton) "Five Pounds Net Weight When Packed Adams' Selected Frozen Sea Foods."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: November 20, 1950. Default decree of condemnation. The court ordered that the product be disposed of for purposes other than for human consumption.

16774. Adulteration of frozen mackerel fillets. U. S. v. 49 Cases * * *. (F. D. C. No. 29742. Sample No. 3053–K.)

LIBEL FILED: September 25, 1950, Eastern District of Virginia.

ALLEGED SHIPMENT: On or about September 5, 1950, by J. Adams' & Co., Inc., from Boston, Mass.

PRODUCT: 49 cases, each containing 5 10-pound cartons, of frozen mackerel fillets at Norfolk, Va.

LABEL, IN PART: (Carton) "Ten Pounds Net Weight When Packed Adams' Selected Frozen Sea Foods."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a putrid substance.

DISPOSITION: November 17, 1950. Default decree of condemnation and destruction.

16775. Adulteration of canned herring roe. U. S. v. 22 Cases * * *. (F. D. C. No. 29670. Sample No. 3050–K.)

LIBEL FILED: August 4, 1950, Eastern District of North Carolina.

ALLEGED SHIPMENT: On or about May 9, 1949, by Southgate Brokerage Co., Inc., from Norfolk, Va.

PRODUCT: 22 cases, each containing 24 15-ounce cans, of herring roe at Rocky Mount, N. C.

LABEL, IN PART: (Can) "Deep Point Brand * * * Herring Roe Packed By Deep Point Canning Co., Montross, Va."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), brine had been substituted in part for herring roe.

DISPOSITION: September 25, 1950. Default decree of condemnation. The court ordered that the product be delivered to an eleemosynary institution, for its use as food.

16776. Adulteration of frozen shrimp. U. S. v. 484 Pounds * * *. (F. D. C. No. 29744. Sample No. 74007–K.)

LIBEL FILED: September 21, 1950, Southern District of New York.

ALLEGED SHIPMENT: On or about August 28, 1950, by J. R. Hardee, Jr., from Berwick, La.

PRODUCT: 484 pounds of unlabeled frozen shrimp at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed shrimp.

DISPOSITION: October 10, 1950. Default decree of condemnation and destruction.

FRUITS AND VEGETABLES

CANNED FRUIT

16777. Misbranding of canned pineapple. U. S. v. 34 Cases, etc. (F. D. C. No. 29277. Sample Nos. 43282–K, 43283–K.)

LIBEL FILED: June 21, 1950, Eastern District of Michigan.

ALLEGED SHIPMENT: On or about July 2, 1949, by the Christensen Products Corp., from Weslaco, Tex.

PRODUCT: 120 cases, each containing 24 1-pound, 4-ounce cans, of pineapple at Owosso, Mich.

LABEL, IN PART: "Tropic Gold Brand Pineapple Chunks [or "Sliced Pineapple"] In Extra Heavy Syrup."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label designation "In Extra Heavy Syrup" was false and misleading as applied to an article which was packed in light sirup.

DISPOSITION: November 13, 1950. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution for its use.

FROZEN FRUIT

16778. Adulteration of frozen strawberries. U. S. v. 151 Barrels * * *. (F. D. C. No. 29587. Sample No. 85175–K.)

LIBEL FILED: September 14, 1950, District of Minnesota.

ALLEGED SHIPMENT: On or about August 2, 1950, by Epperson & Sons, from Everett, Wash.

PRODUCT: 151 barrels of frozen strawberries at St. Paul, Minn.

LABEL, IN PART: "3/1 Marshall Strawberries Net 440."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of rotten and moldy berries.

DISPOSITION: September 28, 1950. Griggs, Cooper & Co., St. Paul, Minn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation, under the supervision of the Federal Security Agency. As a result of the segregation operations, 23 barrels of the product were found unfit and were destroyed.

16779. Adulteration of frozen strawberries. U. S. v. 50 Tins, etc. (F. D. C. No. 29519. Sample Nos. 75132–K, 75133–K.)

LIBEL FILED: On or about August 14, 1950, Northern District of Texas.

ALLEGED SHIPMENT: On or about May 5, 1950, by L. C. Mays Co., Inc., from Hammond, La.

PRODUCT: 149 30-pound tins of frozen strawberries at Fort Worth, Tex.

LABEL, IN PART: "Mayco Brand Cold Pack Strawberries."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of rotten and moldy berries.

DISPOSITION: December 4, 1950. Default decree of condemnation. The court ordered that the product be delivered to a Government hospital, for use as animal feed.

JELLY AND FRUIT BUTTER

16780. Misbranding of jelly. U. S. v. Adolph C. Kordick (Royal Palm Kitchens), and Joseph L. Cordell. Pleas of guilty. Fine of $1,200 against Adolph C. Kordick; fine of $300 against Joseph L. Cordell. (F. D. C. No. 28138. Sample Nos. 27712–K, 42829–K to 42832–K, incl., 60761–K.)

INDICTMENT FILED: March 30, 1950, Northern District of Illinois, against Adolph C. Kordick, trading as Royal Palm Kitchens, and Joseph L. Cordell, Chicago, Ill.

ALLEGED SHIPMENT: On or about March 14, 1949, from the State of Illinois into the States of Missouri, Wisconsin, and Iowa.

LABEL, IN PART: (Jar) "Royal Palm Pure Strawberry [or "Red Currant," "Black Raspberry," or "Red Raspberry"] Jelly * * * Royal Palm Kitchens Chicago, Ill."

NATURE OF CHARGE: Misbranding, Section 403 (g) (1), the articles failed to conform to the definition and standard of identity for jellies since the articles were made from mixtures composed of less than 45 parts by weight of the fruit juice ingredients, i. e., strawberry, red currant, black raspberry, and red raspberry, respectively, to each 55 parts by weight of one of the optional saccharine ingredients specified in the definition and standard.

DISPOSITION: November 15, 1950. Pleas of guilty having been entered, the court imposed a fine of $1,200 against Adolph C. Kordick and a fine of $300 against Joseph L. Cordell.

16781. Adulteration and misbranding of red raspberry jelly. U. S. v. 38 Cases * * *. (F. D. C. No. 29747. Sample No. 67756–K.)

LIBEL FILED: September 27, 1950, District of Idaho.

ALLEGED SHIPMENT: On or about July 25, 1950, by Dixie Preserves, Ltd., from Los Angeles, Calif.

PRODUCT: 38 cases, each containing 24 12-ounce jars, of red raspberry jelly at Pocatello, Idaho.

LABEL, IN PART: (Jar) "Dixie Brand Pure Jelly Net Wt. 12 Oz. Red Raspberry."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product deficient in fruit juice had been substituted for red raspberry jelly.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for red raspberry jelly.

DISPOSITION: November 30, 1950. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution.

16782. Adulteration and misbranding of apple butter. U. S. v. 24 Cases * * *. (F. D. C. No. 29362. Sample No. 78429–K.)

LIBEL FILED: June 16, 1950, District of Hawaii.

ALLEGED SHIPMENT: On or about May 25, 1950, by the Pacific Food Products Co., Seattle, Wash.

PRODUCT: 24 cases, each containing 12 27-ounce jars, of apple butter at Honolulu, T. H.

LABEL, IN PART: "Sunny Jim Pure Washington Apple Butter."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product of less than 43 percent soluble solids had been substituted for apple butter.

Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for apple butter since the soluble-solids content of the article was less than 43 percent.

DISPOSITION: August 17, 1950. The shipper, claimant, having admitted the allegations of the libel and consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be delivered to charitable institutions.

VEGETABLES

16783. Adulteration of black-eyed peas. U. S. v. 7 Bags * * *. (F. D. C. No. 29751. Sample Nos. 82014–K, 82015–K.)

LIBEL FILED: On or about October 4, 1950, Northern District of Georgia.

ALLEGED SHIPMENT: On or about March 17, 1950, from Crows Landing, Calif.

PRODUCT: 7 100-pound bags of black-eyed peas at Atlanta, Ga.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs, insects, insect excreta, and insect webbing; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: November 2, 1950. Default decree of condemnation. The court ordered that the product be delivered to a Government institution, for use as animal feed.

16784. Misbranding of canned peas. U. S. v. 185 Cases * * *. (F. D. C. No. 29740. Sample No. 74891–K.)

LIBEL FILED: September 19, 1950, Southern District of New York.

ALLEGED SHIPMENT: On or about July 17 and 24, 1950, by the Melrose Canning Co., from Melrose, Md.

PRODUCT: 185 cases, each containing 6 No. 10 cans, of peas at New York, N. Y.

LABEL, IN PART: (Can) "Evelyn run of pod Early June Peas Contents 1 Lb. 4 Ozs."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned peas since the alcohol-insoluble solids of the peas in the container were more than 23.5 percent, and the label failed to bear the statement that the product was below the standard; and, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents. (The cans were short of the declared weight.)

DISPOSITION: October 30, 1950. Foss-Melnick Sales Co., New York, N. Y., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling, under the supervision of the Food and Drug Administration.

16785. Misbranding of canned spinach. U. S. v. Kuhn Cannery. Plea of nolo contendere. Fine of $200, plus costs. (F. D. C. No. 29596. Sample No. 70914–K.)

INFORMATION FILED: July 14, 1950, District of Kansas, against the Kuhn Cannery, a partnership, Bonner Springs, Kans.

ALLEGED SHIPMENT: On or about December 9, 1949, from the State of Kansas into the State of Missouri.

LABEL, IN PART: "Dollie Mae Fancy Spinach."

NATURE OF CHARGE: Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for canned spinach since it was not sealed in the container and so processed by heat as to prevent spoilage.

DISPOSITION: November 13, 1950. A plea of nolo contendere having been entered, the court imposed a fine of $200, plus costs.

TOMATOES AND TOMATO PRODUCTS

16786. Adulteration of canned tomatoes. U. S. v. Charles F. McCarthy (McCarthy Canning Co.). Plea of nolo contendere. Fine, $250. (F. D. C. No. 29603. Sample No. 65515–K.)

INFORMATION FILED: September 8, 1950, Southern District of Indiana, against Charles F. McCarthy, trading as the McCarthy Canning Co., Summitville, Ind.

ALLEGED SHIPMENT: On or about February 13, 1950, from the State of Indiana into the State of Illinois.

LABEL, IN PART: (Can) "Hy–Top Tomatoes * * * Packed for Goldblatt Bros., Inc. Chicago, Ill."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of vinegar fly eggs and maggots, and of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: November 10, 1950. A plea of nolo contendere having been entered, the court imposed a fine of $250.

16787. Adulteration of canned tomatoes. U. S. v. 500 Cases * * *. (F. D. C. No. 29748. Sample No. 84836–K.)

LIBEL FILED: September 22, 1950, Eastern District of Kentucky.

ALLEGED SHIPMENT: On or about August 28, 1950, by Roberts Bros., Inc., from Baltimore, Md.

PRODUCT: 500 cases, each containing 24 1-pound, 12-ounce cans, of tomatoes at Lexington, Ky.

LABEL, IN PART: (Can) "Roberts Big R Brand Tomatoes."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: October 10, 1950. Roberts Bros., Inc., Baltimore, Md., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond, conditioned that it be brought into compliance with the law, under the supervision of the Food and Drug Administration. The good portion was segregated from the bad, with the result that 304 cases were released to the claimant and 196 cases were destroyed.

16788. Adulteration of tomato puree. U. S. v. 179 Cases * * *. (F. D. C. No. 29903. Sample No. 77076–K.)

LIBEL FILED: September 27, 1950, Eastern District of Illinois.

ALLEGED SHIPMENT: On or about July 21, 1950, by Quality Products, Inc., from La Feria, Tex.

PRODUCT: 179 cases, each containing 48 10½-ounce cans, of tomato puree at Cairo, Ill.

LABEL, IN PART: "Curtis Tomato Puree."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of maggots and fly eggs, and of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: November 8, 1950. Default decree of condemnation and destruction.

NUTS

16789. Adulteration of pecans. U. S. v. 150½ Bags * * * (and 2 other seizure actions). (F. D. C. Nos. 27982, 27983, 28345. Sample Nos. 50282–K to 50284–K, incl., 50943–K, 64444–K, 68132–K to 68135–K, incl., 68212–K to 68219–K, incl.)

LIBELS FILED: November 10 and 16 and December 14, 1949, District of Minnesota and Western District of Washington.

ALLEGED SHIPMENT: On or about September 28 and 29, 1949, by the Consolidated Pecan Sales Co., from Albany, Ga.

PRODUCT: Pecans. 1,007½ bags, each full bag containing 50 pounds; 50 100-pound bags; and 465 cases, each containing 25 1-pound packages, at Minneapolis, Minn., and Seattle and Kelso, Wash.

LABEL, IN PART: "King Cole * * * Paper Shell Pecans."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of rancid, moldy, and otherwise decomposed nuts, and a portion (32 50-pound bags)

was otherwise unfit for food by reason of the presence of shriveled nuts and empty shells.

DISPOSITION: November 25, 1949, and January 9, 1950. The Consolidated Pecan Sales Co., claimant, having consented to the entry of decrees, judgments of condemnation were entered and the court ordered that the product be released under bond for segregation and destruction of the unfit portion, under the supervision of the Federal Security Agency. The segregation operations resulted in the destruction of approximately 12½ percent of the seized nuts.

OIL

16790. Supplement to notice of judgment on foods, No. 13346. U. S. v. 6 Cans, etc. Suit for forfeiture of bond following condemnation and release of product under bond; bond ordered forfeited. (F. D. C. Nos. 21944, 21946. Sample Nos. 65637–H, 65638–H.)

Subsequent to the entry of the decree of condemnation against the 6 cans and 50 cases of edible oil under seizure in the case and the release of such product under bond to the Emperor Dairy Products Co., Inc., claimant, a motion was filed on behalf of the Government for forfeiture of the bond for failure to comply with the terms of the decree requiring that the re-refining, purifying, repacking, and relabeling of the product provided for under the decree be supervised by the Federal Security Agency. An affidavit in opposition to the motion was then filed on behalf of the claimant; and on September 6, 1950, the court, after due consideration, sustained the Government's motion and ordered that the claimant's bond in the amount of $3,000 be forfeited.

POULTRY

16791. Adulteration of dressed poultry. U. S. v. Blue Star Foods, Inc., David J. Kaplan, and Joe S. Kaplan. Pleas of nolo contendere. Corporation fined $200, plus costs; each individual fined $25. (F. D. C. No. 29135. Sample Nos. 70104–K, 70105–K, 70113–K, 70118–K, 70119–K.)

INFORMATION FILED: May 16, 1950, District of Nebraska, against Blue Star Foods, Inc., Wahoo, Nebr., and David J. Kaplan, president, and Joe S. Kaplan, manager of the corporation.

ALLEGED SHIPMENT: On or about October 21 and 28 and November 29, 1949, from the State of Nebraska into the State of Iowa.

LABEL, IN PART: (Box) "Blue Moon Poultry [or "Red" or "Blue Diamond Fowl"] * * * Pkd. By Blue Star Produce Inc. Gen. Off. Co. Bluffs, Ia."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of rodent pellets and fecal smears; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: November 27, 1950. Pleas of nolo contendere having been entered, the court fined the corporation $200, plus costs, and each individual defendant $25.

16792. Adulteration of dressed poultry. U. S. v. 13 Boxes * * *. (F. D. C. No. 29724. Sample No. 57176–K.)

LIBEL FILED: September 11, 1950, District of Connecticut.

ALLEGED SHIPMENT: On or about August 15, 1950, by Litchfield Produce Co., Inc., from Litchfield, Minn.

PRODUCT: 13 boxes, each containing approximately 40 pounds, of dressed poultry at New Haven, Conn.

LABEL, IN PART: (Box) "Majestic Brand Poultry * * * Wilson & Co. * * * U. S. D. A. Grade B."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of fecal matter and rodent excreta; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: October 13, 1950. Default decree of condemnation and destruction.

16793. Adulteration of dressed poultry. U. S. v. 9 Crates * * * (and 1 other seizure action). (F. D. C. No. 29377. Sample Nos. 73123–K, 73124–K.)

LIBELS FILED: June 30, 1950, Southern District of New York.

ALLEGED SHIPMENT: On or about June 12 and 13, 1950, by the Delmarva Poultry Corp., Milford. Del.

PRODUCT: Dressed poultry. 9 crates, containing a total of 675 pounds, and 32 crates, containing a total of 2,250 pounds, at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of fecal matter, feathers, and other extraneous filth.

DISPOSITION: August 14, 1950. The shipper, claimant, having consented to the entry of decrees, judgments of condemnation were entered and the court ordered that the product be released under bond for the salvaging of the fit portion, under the supervision of the Food and Drug Administration. Segregation operations resulted in the salvage of 1,800 pounds of poultry. The remainder of the poultry was denatured.

16794. Adulteration of dressed poultry. U. S. v. 25 Crates * * *. (F. D. C. No. 29315. Sample No. 73114–K.)

LIBEL FILED: May 17, 1950, Southern District of New York.

ALLEGED SHIPMENT: On or about April 27, 1950, by Eagle Poultry Packers, Inc., Frankford, Del.

PRODUCT: 25 crates, each containing approximately 70 pounds, of dressed poultry at New York. N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of birds that were contaminated with fecal and other extraneous matter; and Section 402 (a) (5), the product was in whole or in part the product of a diseased animal.

DISPOSITION: September 12, 1950. The shipper, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond for the segregation of the fit from the unfit portion and the destruction of the unfit portion, under the supervision of the Food and and Drug Administration. The segregation operations resulted in the salvage and release of approximately 1,000 pounds of poultry. The remainder of the poultry was destroyed.

SPICES, FLAVORS, AND SEASONING MATERIALS

16795. Adulteration of marjoram. U. S. v. 9 Unlabeled Barrels, etc. (F. D. C. No. 29739. Sample Nos. 79671–K, 79672–K, 79674–K to 79676–K, incl.)

LIBEL FILED: September 18, 1950, District of Massachusetts.

ALLEGED SHIPMENT: On or about August 16, November 3, and December 2, 1949, from New York, N. Y.

PRODUCT: 9 unlabeled barrels, each containing 75 pounds, of ground French marjoram, and 5 unlabeled barrels, each containing 75 pounds, of ground Chilean marjoram at Revere, Mass.; and one partly filled barrel containing approximately 9 pounds of whole marjoram, one partly filled barrel containing approximately 60 pounds of rubbed marjoram and one partly filled barrel containing approximately 67 pounds of ground marjoram at Boston, Mass.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of insects, insect parts, and rodent hair fragments. The articles were adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: October 30, 1950. Default decree of condemnation and destruction.

16796. Adulteration and misbranding of "replacement" pepper. U. S. v. 1 Drum * * *. (F. D. C. No. 29694. Sample No. 40364–K.)

LIBEL FILED: On or about August 21, 1950, District of Maryland.

ALLEGED SHIPMENT: On or about May 4, 1950, by the Austin Food Products Corp., from Brooklyn, N. Y.

PRODUCT: 1 unlabeled drum containing 50 pounds of an article invoiced as "Replacement Pepper" at Baltimore, Md.

Examination showed that the product consisted of a substance having the characteristics of ground nutmeg, with a small amount of black pepper and an oil having the flavor of capsicum or other hot peppers.

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, pepper, had been omitted in part from the article; and, Section 402 (b) (4), substances had been added to the article and mixed and packed therewith to increase its bulk or weight.

Misbranding, Section 403 (b), the article was offered for sale under the name of another food, namely, pepper; Sections 403 (e) (1) and (2), the article failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the contents; and, Section 403 (i) (2), the article was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient.

DISPOSITION: September 26, 1950. Default decree of condemnation and destruction.

16797. Adulteration of soy sauce. U. S. v. 482 Cases, etc. (F. D. C. Nos. 29284, 29285. Sample Nos. 88170–K, 88171–K.)

LIBELS FILED: June 26, 1950, District of Colorado.

ALLEGED SHIPMENT: On or about June 14, 1950, by the Showa Shoyu Brewing Co., from Glendale, Ariz.

PRODUCT: Soy sauce. 482 cases, each containing 4 1-gallon jugs, and 98 cases, each containing 12 1-quart bottles, at Denver, Colo.

LABEL, IN PART: "Marusho Soy Sauce."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of its active fermentation.

DISPOSITION: August 1, 1950. Default decree of condemnation and destruction.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE

16798. Adulteration of wheat germ. U. S. v. Dwarfies Corp. and James John Oberdin. Pleas of guilty. Corporation fined $1,000 and individual defendant $500, plus costs. Individual defendant also sentenced to 6 months in jail; jail sentence suspended and defendant placed on probation for 6 months. (F. D. C. No. 29162. Sample Nos. 55286–K, 68010–K.)

INDICTMENT RETURNED: May 16, 1950, Southern District of Iowa, against the Dwarfies Corp., Council Bluffs, Iowa, and James John Oberdin, secretary-treasurer of the corporation.

ALLEGED SHIPMENT: On or about August 3 and 25, 1949, from the State of Iowa into the States of Misouri and Colorado.

LABEL, IN PART: (Case) "12 – 11 Oz. Glass Jars Dwarfies Toasted Wheat Germ Mfd. [or "Packed"] By Dwarfies Corporation, Council Bluffs, Iowa."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of larvae, insect parts, and rodent excreta fragments.

DISPOSITION: October 28, 1950. Pleas of guilty having been entered, the court fined the corporation $1,000 and the individual defendant $500, plus costs. The individual defendant was also sentenced to 6 months in jail on each of the 2 counts of the information, with the sentences to run concurrently; however, the jail sentences were suspended, and the defendant was placed on probation for 6 months.

16799. Adulteration and misbranding of vitamin B complex tablets. U. S. v. White Laboratories, Inc. Plea of guilty. Fine, $2,000. (F. D. C. No. 29449. Sample Nos. 11890–K, 42383–K.)

INFORMATION FILED: August 17, 1950, District of New Jersey, against White Laboratories, Inc., from Newark, N. J.

ALLEGED SHIPMENT: On or about August 16 and 20, 1949, from the State of New Jersey into the States of New York and Illinois.

LABEL, IN PART: "Natural Vitamin B Complex Tablets" and "B Complex Tablets."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), valuable constituents, thiamine, riboflavin, and nicotinic acid, had been in part omitted and abstracted from the tablets.

Misbranding, Section 403 (a), the statement "Each tablet contains not less than: Thiamine 0.5 Milligram Riboflavin 0.5 Milligram * * * Nicotinic Acid 300.0 Micrograms," borne on the label of a portion of the tablets, and the

statement "Each tablet contains not less than: .5 mg. Thiamine .5 mg. Riboflavin * * * 300.0 micrograms Nicotinic Acid," borne on the label of the remainder of the tablets, were false and misleading since the tablets contained less than those amounts of thiamine, riboflavin, and nicotinic acid.

DISPOSITION: November 10, 1950. A plea of guilty having been entered, the court imposed a fine of $2,000.

16800. Adulteration and misbranding of vitamin and mineral tablets and B complex tablets. U. S. v. 96 Packages, etc. (F. D. C. No. 29359. Sample Nos. 68527–K to 68529–K, incl.)

LIBEL FILED: June 28, 1950, Western District of Washington.

ALLEGED SHIPMENT: On or about April 28, 1944, from New Brunswick, N. J.

PRODUCT: 96 50-tablet packages and 60 100-tablet packages of vitamin and mineral tablets, and 5 cartons, each containing 12 100-tablet bottles, of B complex tablets at Seattle, Wash.

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), valuable constituents of the products, vitamins A and B_1, in the vitamin and mineral tablets, and vitamin B_1, in the B complex tablets, had been in whole or in part omitted.

Misbranding, Section 403 (a), the label statements (vitamin and mineral tablets) "3 Daily Tablets supply Not Less Than: Vitamin A.... 5,000 U. S. P. Units, Vitamin B_1.... 1,000 Micrograms (333 U. S. P. Units)" and (B complex tablets) "Each Tablet Contains Vitamin B_1 (Thiamine) .... 500 U. S. P. Units" were false and misleading.

The products were adulterated and misbranded while held for sale after shipment in interstate commerce.

DISPOSITION: September 29, 1950. Default decree of condemnation and destruction.

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FEDERAL SECURITY AGENCY

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

16801–16850

FOODS

The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Federal Security Agency, and include, where indicated, the results of investigations of the Agency, prior to the institution of the proceedings. Published by direction of the Federal Security Administrator.

PAUL B. DUNBAR, *Commissioner of Food and Drugs.*

WASHINGTON, D. C., *April 6, 1951.*

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CEREALS AND CEREAL PRODUCTS

FLOUR*

Nos. 16801 to 16807 report actions involving flour that was insect- or rodent-infested, or both.

16801. Adulteration of flour. U. S. v. 26 Bags, etc. (F. D. C. No. 29734. Sample Nos. 81840–K, 82021–K to 82025–K, incl.)

LIBEL FILED: On or about September 25, 1950, Southern District of Florida.

ALLEGED SHIPMENT: On or about March 31, April 27, and May 26, 1950, from Louisville, Ky., and Salina, Kans.

PRODUCT: 227 25-pound bags and 131 10-pound bags of flour at Sanford, Fla.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and insect parts. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: November 15, 1950; amended November 29, 1950. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, to be used as animal feed.

16802. Adulteration of flour. U. S. v. 23 Bags, etc. (F. D. C. No. 29773. Sample Nos. 57472–K to 57474–K, incl., 74892–K, 74893–K.)

LABEL FILED: October 2, 1950, District of New Jersey.

ALLEGED SHIPMENT: On or about January 1, February 19, March 27, June 20, and August 18, 1950, from Minneapolis, Minn., and Buffalo, N. Y.

PRODUCT: 157 100-pound bags of flour at Bayonne, N. J.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: December 4, 1950. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for use as stock feed.

16803. Adulteration of flour. U. S. v. 35 Bags * * *. (F. D. C. No. 29722. Sample No. 86157–K.)

LIBEL FILED: September 11, 1950, District of Arizona.

ALLEGED SHIPMENT: On or about July 20, 1950, from Los Angeles, Calif.

PRODUCT: 35 100-pound bags of flour at Tucson, Ariz.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: November 15, 1950. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for use as animal feed.

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*See also No. 16809.

16804. Adulteration of flour. U. S. v. 12 Bags, etc. (F. D. C. No. 29753. Sample No. 81935–K.)

LIBEL FILED: October 2, 1950, Western District of South Carolina.

ALLEGED SHIPMENT: On or about April 25 and May 5, 1950, from Knoxville, Tenn.

PRODUCT: 12 50-pound bags and 18 100-pound bags of flour at Spartanburg, S. C.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: November 10, 1950. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution, for use as animal feed.

16805. Adulteration of flour. U. S. v. 21 Bags, etc. (F. D. C. No. 29731. Sample Nos. 81838–K, 81839–K.)

LIBEL FILED: September 20, 1950, Southern District of Florida.

ALLEGED SHIPMENT: On or about March 15 and July 8, 1950, from Springfield, Ill., and Minneapolis, Minn.

PRODUCT: 28 100-pound bags of flour at Sanford, Fla.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: November 15, 1950; amended November 29, 1950. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for use as animal feed.

16806. Adulteration of phosphated flour and self-rising flour. U. S. v. 71 Bags, etc. (F. D. C. No. 29793. Sample Nos. 82063–K, 82064–K.)

LIBEL FILED: October 14, 1950, Southern District of Florida.

ALLEGED SHIPMENT: On or about August 10, 1950, from Salina, Kans.

PRODUCT: 71 10-pound bags of phosphated flour and 18 10-pound bags and 75 25-pound bags of self-rising flour at Tampa, Fla.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of insects. The articles were adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: November 20, 1950. Default decree of condemnation. The court ordered that the articles be delivered to a Federal institution, for use as animal feed.

16807. Adulteration of corn flour. U. S. v. 4 Barrels * * *. (F. D. C. No. 29801. Sample No. 86503–K.)

LIBEL FILED: October 12, 1950, District of Arizona.

ALLEGED SHIPMENT: On or about August 17 and September 1, 1950, from Los Angeles, Calif.

PRODUCT: 4 25-pound barrels of corn flour at Phoenix, Ariz.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: December 7, 1950. Default decree of condemnation and destruction.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS

16808. Adulteration of brewers rice. U. S. v. 1,000 Bags * * *. (F. D. C. No. 29492. Sample No. 47260–K.)

LIBEL FILED: July 11, 1950, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about June 13, 1950, by the Rice Growers Assn. of California, from West Sacramento, Calif.

PRODUCT: 1,000 100-pound bags of brewers rice at Pittsburgh, Pa.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects and insect parts; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: September 1, 1950. Default decree of condemnation. The court ordered that the product be denatured, under the supervision of the Food and Drug Administration.

16809. Adulteration of cake mixes, gingerbread mix, and self-rising flour. U. S. v. 8 25-Pound Packages, etc. (F. D. C. No. 29772. Sample Nos. 81933–K, 81934–K.)

LIBEL FILED: October 4, 1950, Western District of South Carolina.

ALLEGED SHIPMENT: On or about March 23, 1949, and July 7, 1950, from Springfield, Ill., and Atlanta, Ga.

PRODUCT: 8 25-pound packages of cake mixes and gingerbread mix and 23 50-pound bags of self-rising flour at Greenwood, S. C.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of insects.

The products were adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: November 14, 1950. Default decree of condemnation. The court ordered that the products be delivered to a charitable institution, for use as animal feed.

CHOCOLATE AND CANDY

16810. Adulteration of chocolate coating and chocolate liquor. U. S. v. 5 Cases, etc. (F. D. C. No. 29775. Sample Nos. 85442–K to 85445–K, incl.)

LIBEL FILED: October 3, 1950, District of Minnesota.

ALLEGED SHIPMENT: On or about December 6, 1949, and March 15 and 20 and July 7, 1950, from Chicago, Ill.

PRODUCT: 6 50-pound cases of chocolate coating and 10 50-pound cases of chocolate liquor at Minneapolis, Minn.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of insects. The products were adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: November 15, 1950. Karp's Upper Midwest Bakers' Supplies, Inc., Minneapolis, Minn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the products were ordered released under bond for reprocessing, under the supervision of the Food and Drug Administration. The chocolate was salvaged by scraping and brushing; the scrap material, amounting to 36 pounds, was denatured.

16811. Adulteration of candy. U. S. v. 4 Cases, etc. (F. D. C. Nos. 29836, 29841. Sample Nos. 86183–K, 86506–K.)

LIBEL FILED: October 20, 1950, District of Arizona.

ALLEGED SHIPMENT: On or about February 17 and 28 and March 17, 1950, from Denver, Colo.

PRODUCT: 4 cases, each containing 12 boxes, and each box containing 24 candy bars; and 45 cases, each containing 36 boxes, and each box containing 12 chocolate eggs, at Phoenix, Ariz.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and insect excreta. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: December 7, 1950. Default decree of condemnation and destruction.

DAIRY PRODUCTS

BUTTER

The following cases report actions involving butter that consisted in whole or in part of filthy or decomposed substances, **Nos. 16812 to 16820**, and that was below the legal standard for milk fat content, **Nos. 16821 and 16822.**

16812. Adulteration of butter. U. S. v. 50 Boxes (3,000 pounds) * * *. (F. D. C. No. 29820. Sample No. 72448–K.)

LIBEL FILED: September 13, 1950, Western District of Kentucky.

ALLEGED SHIPMENT: On or about August 17, 1950, by the Indiana Produce Co., from Huntingburg, Ind.

PRODUCT: 50 boxes, each containing 60 pounds of butter at Louisville, Ky.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed animal substance. (Examination showed that the product had been manufactured from cream that was decomposed in whole or in part.)

DISPOSITION: November 20, 1950. The Indiana Produce Co., Huntingsburg, Ind., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for denaturing into soap fat, under the supervision of the Food and Drug Administration.

16813. Adulteration of butter. U. S. v. 55 Cartons * * * (and 1 other seizure action; 2,880 pounds, total). (F. D. C. Nos. 29818, 29833. Sample Nos. 47282–K to 47284–K, incl.)

LIBELS FILED: September 7, 1950, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about July 14, 1950, by the Cudahy-Farmers Creamery, from Oskaloosa, Iowa.

PRODUCT: 90 cartons, each containing 32 1-pound prints, of butter at New Castle, Pa.

LABEL, IN PART: "Daisy Maid Brand Creamery Butter" or "Cudahy's Sunlight Creamery Butter."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance. (Examination of this product showed the presence of surface mold.)

DISPOSITION: October 13, 1950. The Cudahy Packing Co., claimant having consented to the entry of decrees, judgments of condemnation were entered and the court ordered that the product be released under bond for conversion into butter oil, under the supervision of the Federal Security Agency.

16814. Adulteration of butter. U. S. v. 50 Cases * * *. (F. D. C. No. 30270. Sample No. 81974–K.)

LIBEL FILED: On or about October 4, 1950, Northern District of Georgia.

ALLEGED SHIPMENT: On or about August 30, 1950, by the Nashville Pure Milk Co., from Nashville, Tenn.

PRODUCT: 50 cases, each containing 60 pounds of butter at Atlanta, Ga.

LABEL, IN PART: "Creamery Butter Nashville Pure Milk Co., Nashville, Tenn."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy and decomposed substance by reason of having been made from filthy and moldy cream.

DISPOSITION: November 2, 1950. Default decree of condemnation. The court ordered that the product, in lieu of destruction, be delivered to a Federal institution, for use as animal feed.

16815. Adulteration of butter. U. S. v. 27 Cases * * * (and 1 other seizure action). (F. D. C. Nos. 29813, 29814. Sample Nos. 85937–K, 85939–K, 85940–K.)

LIBELS FILED: September 7, 1950, Eastern District of Louisiana.

ALLEGED SHIPMENT: On or about August 20 and 27, 1950, by the Sugar Creek Creamery Co., from Russellville, Ark.

PRODUCT: 37 cases of butter at New Orleans, La.

LABEL, IN PART: "Valley Farm Brand Creamery Butter * * * The Cudahy Packing Co.," "Reedsdale Brand Butter Distributed by Sugar Creek Creamery Co., Danville, Illinois," or "Creole Brand Butter Distributed by H. G. Hill Stores, Inc. New Orleans, La."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed animal substance. (Examination showed that the product had been manufactured from cream that was decomposed in whole or in part.)

DISPOSITION: October 13, 1950. The Sugar Creek Creamery Co., Danville, Ill., claimant, having consented to the entry of decrees, judgments of condemnation were entered and the court ordered that the product be released under bond for conversion into butter oil, under the supervision of the Food and Drug Administration.

16816. Adulteration of butter. U. S. v. 35 Cases * * *. (F. D. C. No. 29756. Sample Nos. 54983–K, 54984–K.)

LIBEL FILED: August 14, 1950, Eastern District of Louisiana.

ALLEGED SHIPMENT: On or about July 27 and 29, 1950, by Harp Foods Mfg., Inc., from Shawnee, Okla.

PRODUCT: 35 cases, each containing from 28 to 32 pounds, of butter at New Orleans, La.

LABEL, IN PART: "American Beauty Brand Creamery Butter * * * Packed Expressly for L. Frank & Co., Inc. New Orleans, La."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance. (Examination showed that the product had been manufactured from cream that was decomposed in whole or in part.)

DISPOSITION: November 2, 1950. Harp Foods Mfg. Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for conversion into refined butter oil, under the supervision of the Federal Security Agency.

16817. Adulteration of butter. U. S. v. 30½ Cases * * *. (F. D. C. No. 29816. Sample No. 70396–K.)

LIBEL FILED: September 15, 1950, District of Kansas.

ALLEGED SHIPMENT: On or about August 28, 1950, by the Alma Creamery Co., from Alma, Mo.

PRODUCT: 30½ cases, each containing 32 1-pound prints, of butter at Kansas City, Kans.

LABEL, IN PART: (Parchment wrapper) "1 Lb. Net Weight * * * Creamery Butter Armour Creameries."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed animal substance. (Examination showed that the product had been manufactured from cream that was decomposed in whole or in part.)

DISPOSITION: On or about November 17, 1950. The Alma Creamery Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for conversion into butter oil, under the supervision of the Food and Drug Administration.

16818. Adulteration of butter. U. S. v. 1 Case, etc. (F. D. C. No. 29827. Sample Nos. 81866–K, 81867–K.)

LIBEL FILED: On or about August 24, 1950, Southern District of Florida.

ALLEGED SHIPMENT: On or about July 25, 1950, by American Dairies, Inc., from Kansas City, Mo.

PRODUCT: 22 cases, each containing 32 pounds, of butter at Miami, Fla.

LABEL, IN PART: "One Pound Net Sylvan Farms Brand [or "June Gold Brand"] * * * Butter Distributors June Dairy Products Co., Inc., New York, N. Y."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of its having been manufactured from decomposed and moldy cream.

DISPOSITION: October 12, 1950. Default decree of condemnation. The court ordered that the product be sold to the highest bidder, conditioned that the product be denatured by the purchaser in the presence of the United States marshal, so that it could not be used as food.

16819. Adulteration of butter. U. S. v. 11 Cases * * *. (F. D. C. No. 29812. Sample No. 22035–K.)

LIBEL FILED: August 16, 1950, Eastern District of Louisiana.

ALLEGED SHIPMENT: On or about July 27, 1950, by C. A. Swanson & Sons, Inc., from Fayetteville, Ark.

PRODUCT: 11 cases of butter at New Orleans, La.

LABEL, IN PART: "Wilson's Clearbrook Creamery Butter 1 Lb. Net Weight Wilson & Co., Inc., Distributors."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed animal substance. (Examination showed that the product had been manufactured from cream that was decomposed in whole or in part.)

DISPOSITION: October 4, 1950. Default decree of condemnation and destruction.

16820. Adulteration of butter. U. S. v. 6 Cases * * *. (F. D. C. No. 29826. Sample No. 81969–K.)

LIBEL FILED: On or about September 7, 1950, Northern District of Georgia.

ALLEGED SHIPMENT: On or about August 17, 1950, by the Nashville Pure Milk Co., from Nashville, Tenn.

PRODUCT: 6 cases, each containing 60 pounds, of butter at Atlanta, Ga.

LABEL, IN PART: "Creamery Butter Nashville Pure Milk Co., Nashville, Tenn."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of having been made from moldy cream.

DISPOSITION: October 2, 1950. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for use as animal feed.

16821. Adulteration of butter. U. S. v. 66 Boxes (4,158 pounds) * * *. (F. D. C. No. 29821. Sample Nos. 73864–K, 73865–K.)

LIBEL FILED: August 25, 1950, Southern District of New York.

ALLEGED SHIPMENT: On or about August 10, 1950, by the Farmers Creamery, from Pender, Nebr.

PRODUCT: 66 boxes, each containing 63 pounds, of butter at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: September 11, 1950. The Farmers Creamery, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond for reworking, under the supervision of the Food and Drug Administration.

16822. Adulteration of butter. U. S. v. 35 Boxes, etc. (1,147 pounds). (F. D. C. No. 29824. Sample No. 85603–K.)

LIBEL FILED: August 30, 1950, Northern District of Iowa.

ALLEGED SHIPMENT: On or about August 14, 1950, by the West Point Creamery, from West Point, Nebr.

PRODUCT: Butter. 35 boxes, each containing 32 pounds, and 1 box, containing 27 pounds, at Sioux City, Iowa.

LABEL, IN PART: "One Pound Net Decker's Creamery Butter Jacob E. Decker & Sons Distributors Gen'l Office, Mason City, Iowa."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: September 14, 1950. The West Point Creamery, West Point, Nebr., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be reworked under the supervision of the Federal Security Agency, so that it would be brought into compliance with the law.

CHEESE

16823. Adulteration of Cheddar cheese. U. S. v. Dimock Dairy Products Co. Plea of guilty. Fine, $100. (F. D. C. No. 29473. Sample No. 75751–K.)

INFORMATION FILED: November 6, 1950, District of South Dakota, against the Dimock Dairy Products Co., a corporation, Dimock, S. Dak.

ALLEGED VIOLATION: On or about November 4, 1948, the defendant gave to a firm engaged in the business of shipping cheese in interstate commerce, at Sioux Falls, S. Dak., a guaranty to the effect that all food products sold or delivered to the holder of the guaranty would be neither adulterated nor misbranded under the law; and on or about May 12, 1950, the defendant caused to be delivered to the holder of the guaranty, at Dimock, S. Dak., a quantity of Cheddar cheese that was adulterated.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the use of filthy milk in the manufacture of the product and of the presence of insect fragments, manure fragments, sand, rust, dirt, and plant matter.

DISPOSITION: November 15, 1950. A plea of guilty having been entered, the court fined the defendant $100.

16824. Adulteration of Cheddar cheese. U. S. v. 5,344 Pounds * * *. (F. D. C. No. 29743. Sample No. 81889–K.)

LIBEL FILED: September 22, 1950, Middle District of North Carolina.

ALLEGED SHIPMENT: *See* Results of Investigation.

PRODUCT: 100 cases of Cheddar cheese, containing a total of 5,344 pounds at Winston-Salem, N. C.

RESULTS OF INVESTIGATION: The product was shipped by Schlosser Bros., Inc., from Frankfort, Ind., on or about August 1, 1950.

LABEL, IN PART: (Case) "Clearfield S. B. Cheddar Type Made from pasteurized M. S."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and insect parts; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: November 17. 1950. Default decree of condemnation. The court ordered that the product be delivered to charitable institutions, for use as animal feed..

16825. Adulteration of Swiss cheese. U. S. v. Dill Cheese Co. and John P. Marty. Pleas of nolo contendere. Fine of $250 against company and $50 against individual. (F. D. C. No. 29990. Sample No. 75579–K.)

INFORMATION FILED: November 1, 1950, Western District of Wisconsin, against the Dill Cheese Co., a cooperative association, Browntown, Wis., and John P. Marty, manager.

ALLEGED VIOLATION: On or about April 26, 1950, the defendants gave to a firm engaged in the business of shipping cheese in interstate commerce, a guaranty to the effect that no article shipped or delivered to the holder of the guaranty would be adulterated or misbranded under the law; and on or about May 19, 1950, the defendants caused to be delivered under the guaranty, a quantity of Swiss cheese which was adulterated.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of rodent-gnawed cheese, beetles, dirt, rust, and metal; and, Section 402 (a) (4), it had been prepared, packed, and held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: November 21, 1950. Pleas of nolo contendere having been entered, the court imposed a fine of $250 against the company and a fine of $50 against the individual.

EGGS

16826. Adulteration of eggs. U. S. v. Del H. Bryson (The Bryson Egg Co.). Plea of guilty. Fine, $250. (F. D. C. No. 29619. Sample No. 31697–K.)

INFORMATION FILED: October 19, 1950, District of Utah, against Del H. Bryson, trading as the Bryson Egg Co., Salt Lake City, Utah.

ALLEGED SHIPMENT: Between the approximate dates of April 11 and 17, 1950, from the State of Utah into the State of California.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy, putrid, and decomposed substance, and was otherwise unfit for food by reason of the presence of "inedible bloods," "mixed rots," moldy eggs, and "black rots."

DISPOSITION: October 27, 1950. A plea of guilty having been entered, the court imposed a fine of $250.

16827. Adulteration and misbranding of frozen eggs. U. S. v. William Parnes (O Street Market). Plea of guilty. Fine, $450. (F. D. C. No. 29639. Sample Nos. 3397–K, 82302–K to 82305–K, incl.)

INFORMATION FILED: On or about November 17, 1950, District of Columbia, against William Parnes, trading as the O Street Market, Washington, D. C.

ALLEGED VIOLATION: Between the approximate dates of January 13 and July 25, 1950, the defendant introduced into interstate commerce a number of cans of frozen eggs, by delivering them to the Terminal Refrigerating & Warehousing Corp., Washington, D. C., for sale in the District of Columbia, or elsewhere.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a decomposed substance by reason of the presence of decomposed eggs.

Misbranding, Sections 403 (e) (1) and (2), the container of the product did not bear a label containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of

the contents; and, Section 403 (i) (1), the container of the product did not bear a label containing the common or usual name of the product.

DISPOSITION: December 6, 1950. A plea of guilty having been entered, the court fined the defendant $450.

16828. Adulteration of frozen eggs. U. S. v. 200 Cans * * *. (F. D. C. No. 29693. Sample No. 73756–K.)

LIBEL FILED: August 18, 1950, Eastern District of New York.

ALLEGED SHIPMENT: On or about June 26, 1950, by Randolph & Co. from Guthrie Center, Iowa.

PRODUCT: 200 30-pound cans of frozen eggs at Brooklyn, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed eggs.

DISPOSITION: November 1, 1950. Helfer King, Inc., New York, N. Y., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation of the fit from the unfit portion and denaturing of the unfit portion, under the supervision of the Food and Drug Administration. 250 cans of eggs were seized, and of these, 219 cans were found to be good; the remaining 31 cans were denatured.

FISH AND SHELLFISH

16829. Adulteration of frozen flounder fillets. U. S. v. 390 Cartons * * *. (F. D. C. No. 29774. Sample No. 82315–K.)

LIBEL FILED: September 29, 1950, District of Columbia.

ALLEGED SHIPMENT: On or about September 18, 1950, by J. Adams' & Co., Inc., from Boston, Mass.

PRODUCT: 390 5-pound cartons of frozen flounder fillets in the District of Columbia.

LABEL, IN PART: (Carton) "Adams' Selected Frozen Sea Foods * * * Flounder."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: November 29, 1950. Default decree of condemnation. The court ordered that the product be delivered to the National Zoological Park, for use as animal feed.

16830. Adulteration of frozen flounder fillets. U. S. v. 20 Cases * * *. (F. D. C. No. 29780. Sample No. 82033–K.)

LIBEL FILED: October 3, 1950, Eastern District of South Carolina.

ALLEGED SHIPMENT: On or about September 15, 1950, by J. Adams' & Co., Inc., from Boston, Mass.

PRODUCT: 20 cases, each containing 10 5-pound cartons, of frozen flounder fillets at Charleston, S. C.

LABEL, IN PART: "Adams' Selected Frozen Sea Foods."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of rotten fish.

DISPOSITION: November 8, 1950. Default decree of condemnation and destruction.

16831. Adulteration of frozen yellow pike. U. S. v. 28 Boxes * * *. (F. D. C. No. 29770. Sample No. 74008–K.)

LIBEL FILED: October 2, 1950, Southern District of New York.

ALLEGED SHIPMENT: On or about August 31 and September 1 and 2, 1950, from Winnipeg, Canada.

PRODUCT: 28 boxes, each containing 50 pounds, of frozen yellow pike at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance. It was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: October 20, 1950. Default decree of condemnation and destruction.

16832. Misbranding of frozen crab meat. U. S. v. 13 Cans * * *. (F. D. C. No. 29932. Sample No. 36893–K.)

LIBEL FILED: October 11, 1950, District of Idaho.

ALLEGED SHIPMENT: On or about September 25, 1950, by the Whiz Fish Products Co., from Seattle, Wash.

PRODUCT: 13 cans of frozen crab meat at Boise, Idaho.

LABEL, IN PART: "Cordova Brand Fresh Frozen Crabmeat Five Pounds Net Packed By Cordova Fish & Cold Storage Co. Cordova, Alaska."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents. (The article was short of the declared weight.)

DISPOSITION: December 12, 1950. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution.

16833. Adulteration of canned oysters. U. S. v. 82 Cases * * *. (F. D. C. No. 29911. Sample No. 70613–K.)

LIBEL FILED: October 3, 1950, Western District of Oklahoma.

ALLEGED SHIPMENT: On or about July 31, 1950, by L. Lopez Sons, New Orleans, La.

PRODUCT: 82 cases, each containing 24 4⅔-ounce cans, of oysters at Enid, Okla.

LABEL, IN PART: "Phoenix Brand Louisiana Cove Oysters."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance. (Examination disclosed the presence of decomposed oysters.)

DISPOSITION: November 7, 1950. The sole intervener having admitted the allegations of the libel and consented to the entry of a decree, judgment of condemnation and destruction was entered.

FRUITS AND VEGETABLES

DRIED FRUIT

16834. Adulteration of apple chops. U. S. v. 119 Bags * * *. (F. D. C. No. 29942. Sample No. 84858–K.)

LIBEL FILED: October 19, 1950, Western District of Kentucky.

ALLEGED SHIPMENT: On or about May 15, 1950, from Yakima, Wash.

PRODUCT: 119 100-pound bags of apple chops at Louisville, Ky.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect-infested apple chops. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: December 12, 1950. Default decree of condemnation. The court ordered that the product be delivered to a public institution, for use as animal feed.

16835. **Adulteration of dried peaches. U. S. v. 128 Cartons * * *.** (F. D. C. No. 29977. Sample No. 77562–K.)

LIBEL FILED: November 1, 1950, Eastern District of Missouri.

ALLEGED SHIPMENT: During June and July 1947, from Fresno, Calif.

PRODUCT: 128 25-pound cartons of dried peaches at St. Louis, Mo.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of rotten and moldy peaches. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: November 27, 1950. Default decree of condemnation and destruction.

16836. **Adulteration of seedless raisins. U. S. v. 35 Boxes, etc.** (F. D. C. No. 29777. Sample No. 81976–K.)

LIBEL FILED: On or about October 4, 1950, Northern District of Georgia.

ALLEGED SHIPMENT: On or about August 17 and October 1 and 24, 1949, from Dinuba and San Jose, Calif.

PRODUCT: 40 30-pound boxes of seedless raisins at Atlanta, Ga.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects, and was otherwise unfit for food by reason of its bitter, sour taste. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: November 2, 1950. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for use as animal feed.

VEGETABLES

16837. **Misbranding of canned cut green beans and tomato puree. U. S. v. San Jose Canning Co. and Ignatius Rancadore. Pleas of nolo contendere. Fine of $150 against each defendant.** (F. D. C. No. 29995. Sample Nos. 58410–K, 68422–K, 68863–K.)

INFORMATION FILED: November 27, 1950, Northern District of California, against the San Jose Canning Co., a corporation, San Jose, Calif., and Ignatius Rancadore, president of the corporation.

ALLEGED VIOLATION: On or about October 28, 1949, and January 18, 1950, the defendants caused quantities of misbranded tomato puree to be introduced into interstate commerce at San Jose, Calif., for delivery to Seattle, Wash.

The defendants also caused to be given a false guaranty with respect to a quantity of canned cut green beans which they delivered between March 7,

1949, and January 10, 1950, within the State of California, to the holder of the guaranty, who was engaged in the business of introducing and delivering for introduction into interstate commerce, quantities of vegetable products. The guaranty was given to the holder thereof on or about September 12, 1946, and it provided, among other things, that no article shipped or delivered thereunder would be adulterated or misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act.

LABEL, IN PART: "Buon Gusto Brand Fancy Tomato Puree * * * Packed For Angelo Merlino & Sons Seattle, U. S. A. Net Weight 6 Lbs. 6 Ozs." and "Pacific Island Brand Cut Green Beans Net Weight 6 Lbs. 5 Oz. S. E. Rykoff & Co. Distributors Los Angeles, California."

NATURE OF CHARGE: Tomato puree. Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents. (The article was short of the declared weight.)

Canned cut green beans. Misbranding, Section 403 (h) (1), the quality of the article fell below the standard of quality for canned green beans since there were present in the article pods or pieces of pods 27/64 inch or more in diameter; there were in the article more than 12 strings per 12 ounces of drained weight, which would support 1/2 pound for 5 seconds or longer when tested by the method prescribed in the standard; the deseeded pods of the article contained more than 0.15 percent by weight of fibrous material when tested by the prescribed method; and the label of the article did not bear a statement that the article fell below the standard.

DISPOSITION: December 14, 1950. Pleas of nolo contendere having been entered, the court imposed a fine of $150 against each defendant.

16838. Adulteration of canned corn. U. S. v. 1,500 Cases * * *. (F. D. C. No. 29921. Sample Nos. 52298–K, 52299–K.)

LIBEL FILED: October 9, 1950, Western District of Kentucky.

ALLEGED SHIPMENT: On or about April 20, 21, and 26, 1950, by W. A. Long & Sons, from Monticello, Iowa.

PRODUCT: 1,500 cases, each containing 24 1-pound, 4-ounce cans, of corn at Henderson, Ky.

LABEL, IN PART: "Starlet [or "Blue Jean"] Cream Style White Sweet Corn Packed By Durbrow Bros. Canning Co. Cedar Rapids, Iowa."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of worms and worm parts.

DISPOSITION: December 12, 1950. Default decree of condemnation. The court ordered that the product be delivered to a public institution, for use as animal feed.

16839. Adulteration of canned corn. U. S. v. 399 Cases * * *. (F. D. C. No. 29888. Sample No. 77558–K.)

LIBEL FILED: On or about September 21, 1950, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about July 19, 1950, by W. A. Long & Sons, from Monticello, Iowa.

PRODUCT: 399 cases, each containing 24 1-pound, 4-ounce cans, of corn at St. Louis, Mo.

LABEL, IN PART: "Mrs. Lane's Cream Style White Sweet Corn."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of worms and worm parts.

DISPOSITION: October 12, 1950. Default decree of condemnation and destruction.

16840. Misbranding of canned peas. U. S. v. 284 Cases * * *. (F. D. C. No. 29677. Sample No. 1976–K.)

LIBEL FILED: August 8, 1950, Southern District of Georgia.

ALLEGED SHIPMENT: On or about February 10 and June 5 and 12, 1950, by the Northwestern Canning & Packing Co., from Seffner, Fla.

PRODUCT: 284 cases, each containing 48 10½-ounce cans, of peas at Savannah, Ga.

LABEL, IN PART: (Can) "Old Glory Improved Glorified * * * Flavor Pack Early June Peas Soaked Dry." (The words "Early June Peas" on the main panel were in large conspicuous type, while the words "Soaked Dry" were in much smaller and less conspicuous type.)

NATURE OF CHARGE: Misbranding, Section 403 (g) (2), the article purported to be, and was represented as, canned peas, a food for which a definition and standard of identity has been prescribed by the regulations, and its label failed to bear the name of the food specified in such definition and standard in that the definition and standard specify that the word "Dried" shall immediately and conspicuously precede or follow the name of the optional pea ingredient present in canned peas, without intervening written, printed, or graphic matter.

Further misbranding, Section 403 (h) (1), the quality of the article fell below the standard of quality for canned peas since the skins of more than 25 percent by count of the peas in the container were ruptured to a width of 1/16 inch or more, and the alcohol-insoluble solids of the peas were more than 23.5 percent; and the label failed to bear a statement that the article fell below the standard of quality.

DISPOSITION: September 7, 1950. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution, for use by it on its premises.

16841. Adulteration of canned spinach. U. S. v. 128 Cases * * *. (F. D. C. No. 29922. Sample No. 77563–K.)

LIBEL FILED: October 9, 1950, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about August 1, 1950, by the Kroger Co., from Fort Atkinson, Wis.

PRODUCT: 128 cases, each containing 24 13-ounce cans, of spinach at St. Louis, Mo.

LABEL, IN PART: (Can) "Freshlike Brand Spinach * * * The Larsen Company Green Bay, Wisconsin Distributors Packed In U. S. A."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects and insect parts.

DISPOSITION: November 1, 1950. Default decree of condemnation and destruction.

TOMATOES AND TOMATO PRODUCTS*

16842. Misbranding of canned tomatoes. U. S. v. 1,209 Cases * * *. (F. D. C. No. 29811. Sample No. 82249–K.)

LIBEL FILED: October 18, 1950, Southern District of West Virginia.

ALLEGED SHIPMENT: On or about August 21, 1950, by Thomas Roberts & Co., from Salisbury, Md.

PRODUCT: 1,209 cases, each containing 6 No. 10 cans, of tomatoes at Charleston, W. Va.

LABEL, IN PART: (Can) "Bel-Dine Tomatoes Contents 10 Oz."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned tomatoes since the drained weight of the contents of the container was less than 50 percent of the weight of water required to fill the container, and the label failed to bear a statement that the product fell below the standard; and the product contained tomato peel per pound of canned tomatoes which covered an area of more than one square inch, and the label failed to bear a statement that the product fell below the standard.

Further misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents. (The cans were labeled "10 Oz." but contained an average of 6 pounds, 5.4 ounces.)

DISPOSITION: November 8, 1950. Thomas Roberts & Co., Salisbury, Md., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling, under the supervision of the Federal Security Agency.

16843. Misbranding of canned tomatoes. U. S. v. 988 Cases * * *. (F. D. C. No. 29804. Sample No. 82245–K.)

LIBEL FILED: October 16, 1950, Southern District of West Virginia.

ALLEGED SHIPMENT: On or about August 18, 1950, by Albert W. Sisk & Son, from Linkwood, Md.

PRODUCT: 988 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Charleston, W. Va.

LABEL, IN PART: (Can) "Salem Brand * * * Tomatoes Packed By Salem Packing Co. Thos. J. Faulkner & Sons, Salem, Md."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned tomatoes since the drained weight of the contents of the container was less than 50 percent of the weight of water required to fill the container and the product contained tomato peel per pound of canned tomatoes which covered an area of more than one square inch, and the label failed to bear a statement that the product fell below the standard.

DISPOSITION: November 28, 1950. The Salem Packing Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling, under the supervision of the Federal Security Agency.

16844. Misbranding of canned tomatoes. U. S. v. 598 Cases * * *. (F. D. C. No. 29785. Sample No. 66952–K.)

LIBEL FILED: October 3, 1950, Middle District of North Carolina.

*See also No. 16837.

ALLEGED SHIPMENT: On or about July 25, 1950, by the Hague Packing Co., from Hague, Va.

PRODUCT: 598 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Sanford, N. C.

LABEL, IN PART: "Powhatan Brand Tomatoes."

NATURE OF CHARGE: Misbranding, Section 403 (a) (4), the product fell below the standard of quality for canned tomatoes since the drained weight was less than 50 percent of the weight of water required to fill the container and the peel per pound of canned tomatoes in the container covered an area of more than one square inch, and the label failed to bear a statement that the product fell below the standard.

DISPOSITION: November 17, 1950. The Hague Packing Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

16845. Adulteration of tomato catsup. U. S. v. Frazier Packing Corp. Plea of guilty. Fined $300. (F. D. C. No. 29602. Sample Nos. 70947–K, 70951–K.)

INFORMATION FILED: July 27, 1950, Southern District of Indiana, against the Frazier Packing Corp., Elwood, Ind.

ALLEGED SHIPMENT: On or about February 9, 1950, from the State of Indiana into the State of Kansas.

LABEL, IN PART: "Santa Fe Brand Santa Fe Hot Tomato Catsup * * * Distributed By The Ranney-Davis Merc. Co. Arkansas City, Kansas."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: August 17, 1950. A plea of guilty having been entered, the court imposed a fine of $300.

16846. Adulteration of tomato puree. U. S. v. 105 Cases * * *. (F. D. C. No. 29884. Sample No. 77536–K.)

LIBEL FILED: September 18, 1950, District of Missouri.

ALLEGED SHIPMENT: On or about July 18, 1950, by the Quality Products Co., from La Feria, Tex.

PRODUCT: 105 cases, each containing 48 10½-ounce cans, of tomato puree at St. Louis, Mo.

LABEL, IN PART: "Curtis Tomato Puree."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: October 11, 1950. Default decree of condemnation and destruction.

POULTRY

16847. Adulteration of dressed poultry. U. S. v. 1,260 Pounds * * *. (F. D. C. No. 29789. Sample No. 73136–K.)

LIBEL FILED: October 6, 1950, Southern District of New York.

ALLEGED SHIPMENT: On or about September 20, 1950, by Diamond State Poultry Co., Inc., Lewes, Del.

PRODUCT: 1,260 pounds of dressed poultry at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of birds which were contaminated with fecal and extraneous matter, and of a decomposed substance by reason of the presence of decomposed birds; and, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal, or of an animal which had died otherwise than by slaughter.

DISPOSITION: November 6, 1950. Diamond State Poultry Co., Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for salvaging of the fit portion, under the supervision of the Food and Drug Administration. The claimant's representative having decided that segregation of the poultry was not feasible, the entire lot was destroyed.

16848. Adulteration of dressed poultry. U. S. v. 217 pounds * * *. (F. D. C. No. 29799. Sample No. 73139–K.)

LIBEL FILED: October 11, 1950, Southern District of New York.

ALLEGED SHIPMENT: On or about September 20, 1950, by the N. J. Dressed Poultry Co., from Norma, N. J.

PRODUCT: 217 pounds of dressed poultry in 3 second-hand orange crates at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of birds which were contaminated with fecal matter, and of a decomposed substance by reason of the presence of decomposed birds; and, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal, or of an animal which had died otherwise than by slaughter.

DISPOSITION: October 26, 1950. Default decree of condemnation. The court ordered that the product be delivered to the Food and Drug Administration.

16849. Adulteration of frozen turkeys. U. S. v. F. M. Stamper Co. Plea of nolo contendere. Fine, $500. (F. D. C. No. 29158. Sample No. 8658–K.)

INFORMATION FILED: May 8, 1950, Eastern District of Missouri, against the F. M. Stamper Co., a corporation, Moberly, Mo.

ALLEGED SHIPMENT: On or about November 2, 1949, from the State of Missouri into the State of New York.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of miscellaneous filth.

DISPOSITION: December 4, 1950. A plea of nolo contendere having been entered, the court fined the defendant $500.

16850. Adulteration of dressed turkeys. U. S. v. 688 pounds * * *. (F. D. C. No. 29794. Sample No. 73138–K.)

LIBEL FILED: October 9, 1950, Southern District of New York.

ALLEGED SHIPMENT: On or about September 14, 1950, by H. L. Custer Poultry, from Hinton, Va.

PRODUCT: 688 pounds of dressed turkeys at Bronx, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed birds; and, Section 402 (a) (5), it was in whole or in part the product of a diseased animal, or of an animal which had died otherwise than by slaughter.

DISPOSITION: November 30, 1950. Default decree of condemnation. The court ordered that the product be delivered to a representative of the Food and Drug Administration and that any birds which were fit for human consumption be segregated and distributed to charitable institutions.

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FEDERAL SECURITY AGENCY

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to Section 705 of the Food, Drug, and Cosmetic Act]

16851–16900

FOODS

The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Federal Security Agency, and include, where indicated, the results of investigations of the Agency, prior to the institution of the proceedings. Published by direction of the Federal Security Administrator.

PAUL B. DUNBAR, *Commissioner of Food and Drugs.*

WASHINGTON, D. C., *April 17, 1951.*

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CEREALS AND CEREAL PRODUCTS

BAKERY PRODUCTS

16851. Adulteration of bread. U. S. v. Watt's Bakery, Inc. Plea of nolo contendere. Fine, $500. (F. D. C. No. 29189. Sample Nos. 52386–K to 52389–K, incl., 52391–K.)

INFORMATION FILED: On or about July 1, 1950, Eastern District of Tennessee, against Watt's Bakery, Inc., Bristol, Tenn.

ALLEGED SHIPMENT: On or about January 24, 1950, from the State of Tennessee into the State of Virginia.

LABEL, IN PART: (Wrapper) "Kern's Jumbo [or "Enriched Thin Sliced," "Restaurant Sandwich," or "Wheat"] Bread Brown-Greer & Co., Inc., Knoxville, Tenn., and London, Ky., Kern's Bakery [or "Watt's Bakery, Inc."] Bristol, Tenn., High Point, N. C."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of rodent hairs; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: August 29, 1950. A plea of nolo contendere having been entered, the court imposed a fine of $500.

16852. Adulteration of ice cream cones. U. S. v. 17 Cans * * * (and 1 other seizure action). (F. D. C. Nos. 29727, 29728. Sample Nos. 74280–K, 74284–K.)

LIBELS FILED: September 13, 1950, District of New Jersey.

ALLEGED SHIPMENT: On or about July 28 and August 10, 1950, by the S & S Cone Corp., from Bronx, N. Y.

PRODUCT: 17 cans each containing 300 ice cream cones at Newark, N. J., and 17 cartons each containing 250 ice cream cones at Plainfield, N. J.

LABEL, IN PART: (Can) "Milk-E Success Sugar Rolled Cones Contents 300"; (carton) "New Ritz-E Cake Cones 250."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of insect fragments and rodent hair fragments; and, Section 402 (a) (4), they had been prepared under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: October 30, 1950. Default decrees of condemnation and destruction.

CORN MEAL*

16853. Adulteration of yellow corn meal. U. S. v. Elam Mills, Inc., and Kazimir K. Lilien. Pleas of guilty. Corporation and individual defendant each fined $150, plus costs. (F. D. C. No. 28755. Sample Nos. 41879–K, 42876–K, 56689–K, 57211–K, 64511–K, 64512–K.)

INFORMATION FILED: October 24, 1950, Northern District of Illinois, against Elam Mills, Inc., Chicago, Ill., and Kazimir K. Lilien, president of the corporation.

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*See also No. 16855.

ALLEGED SHIPMENT: Between the approximate dates of October 12 and November 15, 1949, from the State of Illinois into the States of Michigan, Indiana, New York, and Minnesota.

LABEL, IN PART: "Elam's Stone Ground Yellow Corn Meal."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of rodent excreta, rodent hairs, insects, and insect fragments.

DISPOSITION: January 9, 1951. Pleas of guilty having been entered, the court fined each defendant $150, plus costs.

16854. Adulteration of corn meal. U. S. v. 25 Bales, etc. (F. D. C. No. 29781. Sample No. 81936–K.)

LIBEL FILED: October 3, 1950, Eastern District of South Carolina.

ALLEGED SHIPMENT: On or about March 2, 1950, from Birmingham, Ala.

PRODUCT: Corn meal. 25 bales, each containing 5 10-pound packages, and 3 bales, each containing 8 5-pound packages, at Marion, S. C.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: November 8, 1950. Default decree of condemnation. The product was delivered to an institution, for use as hog feed.

FLOUR

16855. Adulteration of flour and corn meal. U. S. v. Anderson & Spilman, William C. Anderson, Clifton R. Anderson, and Gerald Butler. Pleas of nolo contendere. Fine of $50, plus costs, against defendants as a partnership. Order of probation entered in previous case against partnership revoked; partnership ordered to pay fine of $500, plus costs, which had been suspended upon entry of order of probation. (F. D. C. No. 26322. Sample Nos. 44510–K, 44511–K.)

INFORMATION FILED: January 27, 1949, Eastern District of Kentucky, against Anderson & Spilman, a partnership, Danville, Ky., and William C. Anderson, Clifton R. Anderson, and Gerald Butler, partners in the partnership.

ALLEGED SHIPMENT: On or about September 2 and 16, 1948, from the State of Kentucky into the State of Tennessee.

LABEL, IN PART: "Danville Roller Mills Snow Flake Highest Patent Flour Anderson & Spilman Danville, Ky." and "Snow Flake White Bolted Corn Meal Manufactured By Anderson & Spilman Danville, Kentucky."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in part of filthy substances by reason of the presence of larvae, larval fragments, insect fragments, rodent hair fragments, and rodent excreta fragments; and, Section 402 (a) (4), they had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: June 29, 1950. Pleas of nolo contendere having been entered, the court imposed a fine of $50, plus costs, against the defendants as a partnership. In addition, the court revoked the order of probation which had been entered

against the partnership in the case reported in notices of judgment on foods, No. 11707, and ordered the partnership to pay the fine of $500, plus costs, which had been suspended by the order of probation.

16856. Action to enjoin and restrain the interstate shipment of flour. U. S. v. Swoope Milling Co., Inc., and William I. Mays. Preliminary injunction granted; subsequently dismissed. (Inj. No. 225.)

COMPLAINT FILED: March 21, 1950, Western District of Virginia, against Swoope Milling Co., Inc., Swoope, Va., and William I. Mays, plant manager.

NATURE OF CHARGE: That the defendants had been, and were at the time, introducing and delivering for introduction into interstate commerce, at Swoope, Va., flour which was adulterated in the following respects: Section 403 (a) (3), the flour consisted in part of filthy substances such as insect fragments, mites, setae, insect larval head capsules, rodent hairs, rodent hair fragments, and feather fragments; and, Section 402 (a) (4), the flour had been, and was still being, prepared and held under insanitary conditions whereby it may have become contaminated with filth.

The complaint alleged further that the insanitary conditions of the defendant's plant consisted in, and resulted from, the presence of rodents and insects in and around the machinery and equipment used for preparing the flour, and the presence of rodents in flour storage bins and in other parts of the plant, and in and about silos used for storing wheat from which the flour was prepared.

PRAYER OF COMPLAINT: That the defendants be perpetually enjoined from the acts complained of, and that a preliminary injunction be granted during the pendency of the action.

DISPOSITION: On May 19, 1950, a preliminary injunction was entered, enjoining the defendants and their agents, representatives, servants, and attorneys, and all persons in active concert or participation with any of them, from directly or indirectly introducing or delivering, or causing to be introduced or delivered, for introduction into interstate commerce, flour and enriched flour which were adulterated. The decree provided that the injunction, unless sooner enlarged or revoked, should expire 90 days from the date of entry.

On August 18, 1950, the preliminary injunction was extended for a further period of 90 days; and on December 11, 1950, the injunction proceedings were dismissed at the costs of the defendants.

MACARONI AND NOODLE PRODUCTS

16857. Adulteration of macaroni and egg noodles. U. S. v. St. Louis Macaroni Mfg. Co., Inc. Plea of guilty. Fine, $501. (F. D. C. No. 29655. Sample Nos. 76668–K, 76669–K, 84460–K.)

INFORMATION FILED: December 1, 1950, Eastern District of Missouri, against St. Louis Macaroni Mfg. Co., Inc., St. Louis, Mo.

ALLEGED SHIPMENT: On or about August 1 and 3, 1950, from the State of Missouri into the States of Ohio and Illinois.

LABEL, IN PART: "St. Louis Brand Macaroni [or "Pure Egg Noodles"] St. Louis Macaroni Mfg. Co., Inc., St. Louis, Mo."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in part of filthy substances by reason of the presence of larvae, insects, insect fragments, rodent excreta pellets, and rodent hair fragments; and, Section

402 (a) (4), they had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: January 10, 1951. A plea of guilty having been entered, the court imposed a fine of $501.

16858. Adulteration of macaroni and noodle products. U. S. v. 70 Cases * * * (and 5 other seizure actions). F. D. C. Nos. 29697 to 29699, incl., 29705, 29717, 29718. Sample Nos. 79363–K, 79364–K, 79367–K, 79540–K to 79542–K, incl., 79544–K, 79546–K, 79548–K, 79549–K.)

LIBELS FILED: July 31 and August 25, 29, and 31, 1950, District of Rhode Island and District of Massachusetts.

ALLEGED SHIPMENT: Between the approximate dates of April 4 and August 3, 1950, by Frank Pepe Macaroni Co., Inc., from Waterbury, Conn.

PRODUCT: Macaroni and noodle products. 4,370 pounds at Springfield, Mass., 1,140 pounds at Holyoke, Mass., 420 pounds at North Adams, Mass., and 320 pounds at Providence, R. I.

LABEL, IN PART: "Pepe Pure Egg Noodle Products," "Pepe Superior Quality," and "Moonlight Brand Macaroni Napoli Style."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of rodent hairs, rodent hair fragments, insects, and insect parts; and, Section 402 (a) (4), they had been prepared under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: October 9 and 17, 1950. Default decrees of condemnation and destruction.

16859. Adulteration of macaroni and noodle products. U. S. v. 7 Cases, etc. (F. D. C. No. 29788. Sample Nos. 81937–K to 81939–K, incl.)

LIBEL FILED: October 6, 1950, Eastern District of South Carolina.

ALLEGED SHIPMENT: On or about December 27, 1949, and March 23 and 29, 1950, from Omaha, Nebr.

PRODUCT: 18 cases, each containing 24 14-ounce packages, of macaroni, and 12 cases, each containing 24 14-ounce packages, of spaghetti at Marion, S. C.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of insects. The products were adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: November 20, 1950. Default decree of condemnation and destruction. The products were delivered to an institution, for use as hog feed.

DAIRY PRODUCTS

BUTTER

The following cases report actions involving butter that consisted in whole or in part of filthy or decomposed substances, **Nos. 16860 to 16862,** and that was below the standard for milk fat content, **Nos. 16863 to 16868.**

16860. Adulteration of butter. U. S. v. 27 Cartons (approximately 810 pounds) * * *. (F. D. C. No. 29832. Sample No 85552–K.)

LIBEL FILED: September 6, 1950, District of Minnesota.

ALLEGED SHIPMENT: On or about August 21, 1950, by C. A. Swanson & Sons, from Omaha, Nebr.

PRODUCT: 27 cartons, each containing approximately 30 pounds, of butter at Minneapolis, Minn.

LABEL, IN PART: "Pearson-Minneapolis F-F Brand Butter 1 Lb. Net Wt. * * * Distributed by Pearson & Co. Minneapolis, Minn."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

RESULTS OF INVESTIGATION: Examination of this product showed that it had been manufactured from cream that was decomposed in whole or in part.

DISPOSITION: November 13, 1950. Default decree of condemnation. The court ordered that the product be destroyed or, in lieu of destruction, that it be disposed of for industrial purposes, under the supervision of the Food and Drug Administration.

16861. Adulteration of butter. U. S. v. 12 Cartons (384 pounds) * * *. (F. D. C. No. 29760. Sample No. 76802–K.)

LIBEL FILED: August 21, 1950, Western District of Tennessee.

ALLEGED SHIPMENT: On or about July 27, 1950, by Harp Foods Mfg., Inc., from Shawnee, Okla.

PRODUCT: 12 cartons, each containing 32 1-pound prints, of butter at Memphis, Tenn.

LABEL, IN PART: (Prints) "Harp's Oklahoma Brand Creamery Butter One Pound Net Harp Foods Mfg. Inc. Shawnee, Oklahoma."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed animal substance.

DISPOSITION: December 8, 1950. Harp Foods Mfg., Inc., Shawnee, Okla., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the purpose of converting it into purified butter oil, under the supervision of the Food and Drug Administration.

16862. Adulteration of butter. U. S. v. 19½ Cases * * *. (F. D. C. No. 30268. Sample No. 55025–K.)

LIBEL FILED: September 5, 1950, Northern District of Alabama.

ALLEGED SHIPMENT: On or about July 18 and August 1, 1950, by the Nashville Pure Milk Co., Nashville, Tenn., and by the Cudahy Packing Co., Harrodsburg, Ky.

PRODUCT: 19½ cases, each full case containing 32 1-pound prints, of butter at Birmingham, Ala.

LABEL, IN PART: (Carton) "Daisy Maid Brand Creamery Butter * * * The Cudahy Packing Co. Distributors General Offices, Chicago, Ill."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed animal substance. (Analysis showed that the article had a high mold count.)

DISPOSITION: October 12, 1950. Default decree of condemnation. The court ordered that the product be sold for use in the manufacture of grease, glycerin, or soap.

16863. Adulteration of butter. U. S. v. Paul T. Brown (P. F. Brown & Co.). Plea of nolo contendere. Fine, $75. (F. D C. No. 29182. Sample Nos. 13848–K, 13852–K, 13853–K.)

INFORMATION FILED: June 8, 1950, Eastern District of Pennsylvania, against Paul T. Brown, trading as P. F. Brown & Co., Philadelphia, Pa.

ALLEGED SHIPMENT: On or about November 23 and December 1, 1949, from the State of Pennsylvania into the State of New Jersey.

LABEL, IN PART: "Gurnse Butter * * * Packed by P. F. Brown & Co. Phila., Pa."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent of the product, milk fat, had been in part omitted; and, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: September 28, 1950. A plea of nolo contendere having been entered, the court fined the defendant $75.

16864. Adulteration of butter. U. S. v. Exira Creamery Co. and Jens P. Jensen. Pleas of nolo contendere. Each defendant fined $100; costs also were imposed. (F. D. C. No. 29646. Sample No. 74712–K.)

INFORMATION FILED: November 30, 1950, Southern District of Iowa, against the Exira Creamery Co., Exira, Iowa, and Jens P. Jensen, manager for the corporation.

ALLEGED SHIPMENT: On or about August 19, 1950, from the State of Iowa into the State of New York.

LABEL, IN PART: "Butter Distributed By J. R. Kramer, Inc. New York, N. Y."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent of the product, milk fat, had been in part omitted; and, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: December 15, 1950. Pleas of nolo contendere having been entered, the court fined each defendant $100; costs also were imposed.

16865. Adulteration of butter. U. S. v. Rocky Mountain Creamery, Inc., and Sidney Yeaman. Pleas of nolo contendere. Each defendant fined $50. (F. D. C. No. 29632. Sample Nos. 31163–K, 78627–K.)

INFORMATION FILED: November 8, 1950, District of Idaho, against Rocky Mountain Creamery, Inc., Salmon, Idaho, and Sidney Yeaman, butter maker.

ALLEGED SHIPMENT: On or about April 23 and 24, 1950, from the State of Idaho into the States of California and Montana.

PRODUCT: Butter. One shipment in cubes weighing approximately 96 pounds each and 1 shipment in 1-pound prints.

LABEL, IN PART: (Cubes) "Butter Rocky Mountain Cry. Salmon, Idaho"; (prints) "One Pound Net Weight Meadow Gold Butter Distributed by Beatrice Foods Co. Chicago, Illinois."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent of the product, milk fat, had been in part omitted; and, Section 402 (b) (2). a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: November 27, 1950. Pleas of nolo contendere having been entered, the court fined each defendant $50.

16866. Adulteration of butter. U. S. v. 66 Boxes (4,224 pounds) * * *. (F. D. C. No. 29831. Sample No. 85229–K.)

LIBEL FILED: August 30, 1950, District of Minnesota.

ALLEGED SHIPMENT: On or about August 16, 1950, by Beaver Valley Creameries, Inc., from Linton, N. Dak.

PRODUCT: 66 boxes, each containing 64 pounds, of butter at Minneapolis, Minn.

LABEL, IN PART: "Butter * * * Beaver Valley Brand * * * Beaver Valley Creameries, Inc. Wishek, North Dakota."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: October 10, 1950. Beaver Valley Creameries, Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reworking, under the supervision of the Federal Security Agency.

16867. Adulteration of butter. U. S. v. 4 Boxes (252 pounds) * * *. (F. D. C. No. 29830. Sample No. 84745–K.)

LIBEL FILED: September 25, 1950, Southern District of Ohio.

ALLEGED SHIPMENT: On or about September 11, 1950, by Dearmin & Co., from Odon, Ind.

PRODUCT: 4 63-pound boxes of butter at Cincinnati, Ohio.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: October 20, 1950. Default decree of condemnation. The court ordered that the product be sold, conditioned that it be denatured under the supervision of the United States marshal, so that it could not be disposed of for human food.

16868. Adulteration of butter. U. S. v. 481 Cartons (4,810 pounds) * * *. (F. D. C. No. 29829. Sample Nos. 84381–K, 84387–K.)

LIBEL FILED: August 28, 1950, Northern District of Ohio.

ALLEGED SHIPMENT: On or about June 20, 1950, from Coldwater, Mich.

RESULTS OF INVESTIGATION: The transportation records relating to this shipment indicated that the shipper was the Midwest Producers Creameries, and the libel alleged shipment by that firm. Investigation disclosed that the Coldwater Dairy Co. manufactured the butter and shipped it in interstate commerce in the name of the Midwest Producers Creameries.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: On September 22, 1950, the Midwest Producers Creameries having filed an answer denying that it was the shipper of the product, the court made its finding that such was the fact and that the actual shipper was the Coldwater Dairy Co., Coldwater, Mich. The court thereupon entered an order providing that the name Coldwater Dairy Co. be substituted in each place in the libel where the name Midwest Producers Creameries appeared.

On the same day, the Coldwater Dairy Co. having filed an answer admitting that a portion of the product was violative of the law, the court entered an order providing for the condemnation of that portion of the product which contained less than 80 percent of butter fat and its release under bond for reprocessing, under the supervision of the Federal Security Agency.

CHEESE

16869. Adulteration of cheese. U. S. v. Frank E. Barone (Roma Cheese Co.). Plea of guilty. Fine, $200. (F. D. C. No. 29625. Sample No. 47541–K.)

INFORMATION FILED: November 15, 1950, Western District of New York, against Frank E. Barone, trading as the Roma Cheese Co., Buffalo, N. Y.

ALLEGED SHIPMENT: On or about April 30, 1950, from the State of New York into the State of Pennsylvania.

LABEL, IN PART: "North Star Cheese Mfg. & Prov. Co. * * * Pittsburgh, Pa. Ricotta Fresca."

NATURE OF CHARGE: Adulteration, Section 402 (a) (4), the product had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: December 26, 1950. A plea of guilty having been entered, the court imposed a fine of $200.

16870. Adulteration of cheese food and process cheese. U. S. v. 50 Cases, etc. (F. D. C. No. 29506. Sample Nos. 78651–K, 78652–K.)

LIBEL FILED: August 4, 1950, District of Montana.

ALLEGED SHIPMENT: On or about July 12, 1950, from Salt Lake City, Utah, by the Certified Warehouse & Transfer Co.

PRODUCT: 50 cases, each containing 10 packages, of a cheese food, and 9 10-pound cartons of process cheese at Butte, Mont.

LABEL, IN PART: "Blue Ribbon Brand Two Pounds Net Weight Ta-Chee A Tasty Cheese Food Product Manufactured By Clearfield Cheese Co., Inc. Home Office Curwensville, Pa." and "Clearfield Brand Pasteurized Process Sharp Midget."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: December 13, 1950. Default decree of condemnation. The court ordered that the product be denatured and delivered to a charitable institution, for use as animal feed.

16871. Misbranding of creamed cottage cheese and coffee cream. U. S. v. Good-Rich Dairy. Plea of guilty. Fine, $350. (F. D. C. No. 29642. Sample Nos. 49795–K, 49797–K, 88203–K, 88205–K, 88207–K, 88208–K, 88210–K.)

INFORMATION FILED: November 10, 1950, District of Colorado, against the Good-Rich Dairy, a partnership, Sterling, Colo.

ALLEGED SHIPMENT: On or about August 28 and September 11 and 13, 1950, from the State of Colorado into the State of Nebraska.

LABEL, IN PART: "Half Pint Good-Rich Grade A—Pasteurized Cream" and "Creamed Cottage Cheese Pasteurized."

NATURE OF CHARGE: Creamed cottage cheese. Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for creamed cottage cheese since it contained less than 4 percent by weight of milk fat.

Coffee cream. Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for cream since it contained less than 18 percent by weight of milk fat.

DISPOSITION: November 22, 1950. A plea of guilty having been entered, the court fined the defendant $350.

MISCELLANEOUS DAIRY PRODUCTS*

16872. Adulteration of ice cream. U. S. v. Enid Ice & Fuel Co., Inc. (Peerless Ice & Ice Cream Co.), and Henry Lowe. Pleas of guilty. Each defendant fined $100; costs also were imposed. (F. D. C. No. 29463. Sample Nos. 70060–K, 70062–K, 70063–K, 70087–K.)

INFORMATION FILED: November 6, 1950, Western District of Oklahoma, against Enid Ice & Fuel Co., Inc., trading as the Peerless Ice & Ice Cream Co., Enid, Okla., and Henry Lowe, treasurer of the corporation.

ALLEGED SHIPMENT: On or about December 16, 1949, and January 14, February 11, and March 24, 1950, from the State of Oklahoma into the State of Kansas.

LABEL, IN PART: "Peerless Ice Cream Peerless Ice & Ice Cream Co. Enid, Okla. Contents ½ Gallon Liquid."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent of the product, milk fat, had been in part omitted; Section 402 (b) (2), a product containing a fat other than milk fat had been substituted for ice cream; and, Section 402 (b) (4), a fat other than milk fat had been added to the product and mixed and packed with it so as to reduce its quality.

DISPOSITION: December 22, 1950. Pleas of guilty having been entered, the court fined each defendant $100; costs also were imposed.

16873. Adulteration and misbranding of sweetened condensed milk. U. S. v. 67 Drums * * *. (F. D. C. No. 29371. Sample No. 56972–K.)

LIBEL FILED: June 27, 1950, District of New Jersey.

ALLEGED SHIPMENT: On or about May 12, 1950, by the Liqua Dry Milk Co., from Mauston, Wis.

PRODUCT: 67 drums, each containing approximately 600 pounds of sweetened condensed milk at Newark, N. J.

LABEL, IN PART: (Drum) "Sweetened Whole Condensed Milk Butterfat 8½%."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 8.5 percent of milk fat had been substituted for sweetened condensed milk.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for sweetened condensed milk since it contained less than 8.5 percent of milk fat, as required by the standard.

DISPOSITION: November 8, 1950. The Liqua Dry Milk Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reprocessing to bring it into conformity with the standard, under the supervision of the Food and Drug Administration.

*See also No. 16871.

FEEDS AND GRAINS

16874. Misbranding of Conn-Centrate feed. U. S. v. The Atlantic Supply Co. of Pennsylvania. Plea of guilty. Fine, $300. Payment of $150 of fine suspended and defendant placed on probation for one year. (F. D. C. No. 29598. Sample No. 40053–K)

INFORMATION FILED: July 17, 1950, Middle District of Pennsylvania, against the Atlantic Supply Co. of Pennsylvania, Duncannon, Pa.

ALLEGED SHIPMENT: On or about October 4, 1949, from the State of Pennsylvania into the State of New Jersey.

LABEL, IN PART: "Atlantic Conn-Centrate * * * Manufactured by The Atlantic Supply Company, Baltimore 2, Maryland."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label statements "Protein (minimum) 30% Fat (minimum) 5% Fiber (maximum) 4.5%" were false and misleading since the article contained less than 30 percent of protein, less than 5 percent of fat, and more than 4.5 percent of fiber.

DISPOSITION: November 20, 1950. A plea of guilty having been entered, the court imposed a fine of $300, suspended payment of $150 of the fine, and placed the defendant on probation for one year.

16875. Adulteration and misbranding of canned dog food. U. S. v. 185 Cases * * * (and 1 other seizure action). (F. D. C. Nos. 29806, 29837. Sample Nos. 66960–K, 66963–K.)

LIBELS FILED: On or about October 16 and 18, 1950, District of Maryland.

ALLEGED SHIPMENT: On or about September 1 and 26, 1950, by the Flag Pet Food Corp., from New York, N. Y.

PRODUCT: 185 cases and 583 cases, each containing 48 1-pound cans, of dog food at Baltimore, Md.

LABEL, IN PART: (Can) "Flag Dog Food Contents 1 Lb. Guaranteed Analysis * * * Min. crude protein 10.00% Min. crude fat 2.00%."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), valuable constituents, protein, in both lots (185 cases and 583 cases), and fat, in one lot (185 cases), had been in part omitted.

Misbranding, Section 403 (a), the label statements "Min. crude protein 10.00% Min. crude fat 2.00%" with respect to 1 lot (185 cases) and "Min. crude protein 10.00%" with respect to the other lot (583 cases) were false and misleading.

DISPOSITION: November 13, 1950. The claimant having consented to the entry of decrees, judgments of condemnation were entered and the court ordered that the product be released under bond to be relabeled, under the supervision of the Food and Drug Administration.

FISH AND SHELLFISH

16876. Adulteration of frozen rosefish fillets. U. S. v. Blue Sea Fish Co., Gregory F. Sacca, and Mariano Zaffiro. Pleas of guilty. Corporation fined $150; each individual defendant fined $25. (F. D. C. No. 29626. Sample Nos. 3393–K, 69346–K.)

INFORMATION FILED: December 12, 1950, District of Massachusetts, against the Blue Sea Fish Co., a corporation, Boston, Mass., and Gregory F. Sacca, treasurer, and Mariano Zaffiro, vice president, of the corporation.

ALLEGED SHIPMENT: On or about June 30 and July 17, 1950, from the State of Massachusetts into the State of Ohio and the District of Columbia.

LABEL, IN PART: (Carton) "Schooner Brand Fillets Frozen Rose Fish Fillets Packed By Blue Sea Fish Co. Boston, Mass."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of parasites (copepods).

DISPOSITION: January 9, 1951. Pleas of guilty having been entered, the court fined the corporation $150 and each individual $25.

16877. Adulteration of frozen salmon. U. S. v. 2,919 Pounds * * *. (F. D. C. No. 29807. Sample No. 74013–K.)

LIBEL FILED: October 19, 1950, Southern District of New York.

ALLEGED SHIPMENT: On or about September 20, 1950, by the Canadian Fishing Co., Ltd., from Vancouver, British Columbia, Canada.

PRODUCT: 2,919 pounds of frozen salmon (29 boxes) at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish.

DISPOSITION: February 8, 1951. Default decree of condemnation and destruction.

16878. Adulteration of frozen whiting. U. S. v. 443 Cases * * *. (F. D. C. No. 29556. Sample No. 76813–K.)

LIBEL FILED: August 30, 1950, Western District of Tennessee.

ALLEGED SHIPMENT: On or about August 15, 1950, by Fast Frozen Foods, Inc., from Chicago, Ill.

PRODUCT: 443 cases, each containing 5 10-pound boxes, of frozen whiting at Memphis, Tenn.

LABEL, IN PART: "Pilgrim Brand Fresh Frozen H & G Whiting Packed By Seafood Packers, Inc., Provincetown, Mass."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: November 11, 1950. Fast Frozen Foods, Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the purpose of converting into tankage, under the supervision of the Food and Drug Administration.

16879. Adulteration of canned rock lobster. U. S. v. 188 Cases * * * (and 9 other seizure actions). (F. D. C. Nos. 26110 to 26112, incl., 26133, 26154, 26237, 26253, 26370, 26371, 26379. Sample Nos. 2563–K, 3235–K, 9987–K, 10113–K to 10115–K, incl., 10117–K, 56088–K to 56090–K, incl.)

LIBELS FILED: On or about December 2, 15, 27, 28, 29, and 31, 1948, and January 3 and 14, 1949, Southern, Eastern, and Northern Districts of New York, Southern District of West Virginia, and the District of Maryland.

ALLEGED SHIPMENT: Portions of the product were imported on or about July 9, 1949, from Rotterdam, Holland, and other portions were shipped on or about September 9 and October 20, 1948, from New York, N. Y.

PRODUCT: Rock lobster. 53 22/48 cases, each full case containing 48 6¾-ounce cans, at Brooklyn, N. Y.; 322 cases, each case containing 48 6¾-ounce cans, and 26 cases, each case containing 48 6-ounce cans, at New York, N. Y.; 8 cases, each case containing 48 6-ounce cans, at Albany, N. Y.; 4 cases, each case containing 48 6-ounce cans, at Charleston, W. Va.; and 5 cases, each case containing 48 6-ounce cans, at Baltimore, Md.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed lobster meat. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: On May 18, 1949, Catz American Co., Inc., having appeared as claimant, an order was entered in the District Court for the Southern District of New York, removing the cases filed in the Eastern and Northern Districts of New York, the Southern District of West Virginia, and the District of Maryland, to the Southern District of New York for consolidation for trial and other purposes, with the actions filed in that district. On May 24, 1950, the claimant having failed to file an answer to the libels, judgments of condemnation were entered and the court ordered that the product be destroyed.

16880. Adulteration of canned rock lobster. U. S. v. 5 Cases * * * (and 5 other seizure actions). (F. D. C. Nos. 26117 to 26119, incl. 26163, 26228, 26400. Sample Nos. 2754–K, 2765–K, 3873–K to 3875–K, incl., 45784–K.)

LIBELS FILED: December 7, 17, and 23, 1948, and January 10, 1949, District of Columbia and Eastern District of Missouri.

ALLEGED SHIPMENT: On or about August 13, 23, and 26, 1948, by Catz American Co., Inc., from New York, N. Y.

PRODUCT: Rock lobster. 17 cases, each containing 48 6-ounce cans, and 94 6-ounce cans at Washington, D. C.; and 64 cases, each case containing 48 6-ounce cans, at St. Louis, Mo.

LABEL, IN PART: (Can) "Deep Blue Rock Lobster * * * Product of the Union of South Africa."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed lobster meat.

DISPOSITION: On January 12 and 24 and February 3, 1949, Catz American Co., Inc., having appeared as claimant, orders were entered in the District Court for the District of Columbia and the Eastern District of Missouri, removing the cases filed in those districts to the Southern District of New York for consolidation for trial and other purposes, with certain actions filed in that district.

On May 24, 1950, the claimant having failed to file an answer to the libels, judgment of condemnation was entered and the court ordered that the product be destroyed.

16881. Adulteration of canned rock lobster. U. S. v. 4 Cases * * *. (F. D. C. No. 26380. Sample No. 5591–K.)

LIBEL FILED: January 3, 1949, District of Massachusetts.

ALLEGED SHIPMENT: On or about October 15, 1948, by the J. A. Kirsch Co., from New York, N. Y.

PRODUCT: 4 cases, each containing 48 6-ounce cans, of rock lobster at Worcester, Mass.

LABEL, IN PART: (Can) "Dubonnet Rock Lobster * * * Product of the Union of South Africa."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed lobster meat.

DISPOSITION: On January 28, 1949, the court for the District of Massachusetts ordered the action removed to the Southern District of New York for consolidation, for the purpose of trial, with other actions involving other lots of canned rock lobster which had been seized on similar adulteration charges.

On May 24, 1950, Catz American Co., Inc., claimant, having failed to file an answer to the libel, judgment of condemnation was entered and the court ordered that the product be destroyed.

16882. Adulteration of canned shrimp. U. S. v. 512 Cases * * *. (F. D. C. No. 28867. Sample Nos. 60138–K, 60151–K.)

LIBEL FILED: March 1, 1950, Northern District of Illinois.

ALLEGED SHIPMENT: On or about November 11, 1949, by the Anticich Canning Co., from Biloxi, Miss.

PRODUCT: 512 cases, each containing 48 5-ounce cans, of shrimp at Chicago, Ill.

LABEL, IN PART: (Can) "American Beauty Small Shrimp."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed shrimp.

DISPOSITION: December 20, 1950. The Anticich Canning Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation and destruction of the unfit portions, under the supervision of the Food and Drug Administration. 238 cases of the product were found unfit and were destroyed.

16883. Adulteration of frozen breaded shrimp. U. S. v. 248 Cases * * *. (F. D. C. No. 29294. Sample No. 58916–K.)

LIBEL FILED: July 10, 1950, Northern District of Illinois.

ALLEGED SHIPMENT: On or about June 14, 1950, by the Consolidated Processing Corp., from Miami, Fla.

PRODUCT: 248 cases, each containing 10 3-pound cartons, of frozen breaded shrimp at Chicago, Ill.

LABEL, IN PART: "Gold-N-Maid Ready To Fry Jumbo Shrimp Cleaned, Butterflied."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed shrimp.

DISPOSITION: August 28, 1950. Default decree of condemnation and destruction.

FRUITS AND VEGETABLES

CANNED FRUIT

16884. Adulteration of canned black raspberries. U. S. v. 1,441 Cases * * *. (F. D. C. No. 28960. Sample No. 61718–K.)

LIBEL FILED: May 29, 1950, Eastern District of Illinois.

ALLEGED SHIPMENT: On or about August 9 and 31, 1949, by Michigan Fruit Canners, Inc., from South Haven and Benton Harbor, Mich.

PRODUCT: 1,441 cases, each containing 24 15-ounce cans, of black raspberries at Danville, Ill.

LABEL, IN PART: "Dolly Madison Brand Black Raspberries."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of moldy berries.

DISPOSITION: On September 5, 1950, Fred E. Butcher appeared and filed an answer as amicus curiae, pursuant to petition for leave to file such answer and an order of the court allowing such intervention. The answer of the intervener denied that the product was adulterated as alleged. On December 1, 1950, on motion of the Government, the court vacated the order allowing the intervention of Fred E. Butcher and ordered the answer stricken from the record on the grounds that the intervener had no actual interest in the case nor was he involved in a similar situation that might be affected by the decision of the court in the case; that the owners had not appeared in active defense; that the Government objected to the participation of the amicus curiae; and that the court could be fully advised by the proof submitted by the Government and did not require the assistance of amicus curiae.

On January 9, 1951, no claim or answer having appeared in the record and the court having heard the evidence both oral and documentary submitted by the Government, the court found that the product was adulterated as alleged in the libel. Accordingly, judgment of condemnation was entered and the product was ordered destroyed.

FROZEN FRUIT

16885. Adulteration of frozen strawberries. U. S. v. 218 Cans * * * (and 1 other seizure action). (F. D. C. Nos. 29702, 29733. Sample Nos. 74477–K, 74479–K, 74890–K.)

LIBELS FILED: August 26 and September 15, 1950, District of New Jersey.

ALLEGED SHIPMENT: On or about July 8 and August 31, 1950, by the Prime Canning Co., from Buffalo, N. Y.

PRODUCT: Frozen strawberries. 399 30-pound cans and 218 10-pound cans at Jersey City, N. J.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of rotten and moldy strawberries.

DISPOSITION: December 5, 1950. Default decrees of condemnation and destruction.

MISCELLANEOUS FRUIT PRODUCTS

16886. Adulteration of canned blueberry pie mix. U. S. v. 16 Cases * * *. (F. D. C. No. 28932. Sample No. 68393–K.)

LIBEL FILED: March 31, 1950, Western District of Washington.

ALLEGED SHIPMENT: On or about February 17, 1950, by the Poplar Canning Co., from Poplar, Wis.

PRODUCT: 16 cases, each containing 24 1-pound, 4-ounce cans, of blueberry pie mix at Seattle, Wash.

LABEL, IN PART: "Native Brand Blueberry Pie Mix."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of moldy berries.

DISPOSITION: December 22, 1950. Default decree of condemnation and destruction.

16887. Adulteration of imitation raspberry-flavored peach filling. U. S. v. 15 Pails * * *. (F. D. C. No. 27556. Sample No. 5241–K.)

LIBEL FILED: July 7, 1949, District of Maine.

ALLEGED SHIPMENT: On or about June 6, 1949, by the Orchard Food Products Co., from Boston, Mass.

PRODUCT: 15 45-pound pails of imitation raspberry-flavored peach filling at Biddeford, Maine.

LABEL, IN PART: (Carton) "Orchard Brand Imitation Raspberry Flavored Peach Filling."

NATURE OF CHARGE: Adulteration, Section 402 (b) (4), artificial color and raspberry seeds had been added to, and mixed and packed with, the product so as to make it appear better or of greater value than it was.

DISPOSITION: September 20, 1949. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution.

16888. Misbranding of red raspberry jelly. U. S. v. 25 Cases * * *. (F. D. C. No. 29790. Sample No. 86419–K.)

LIBEL FILED: October 18, 1950, District of Arizona.

ALLEGED SHIPMENT: On or about August 23 and September 21, 1950, by Dixie Preserves, Ltd., from Los Angeles, Calif.

PRODUCT: 25 cases, each containing 24 12-ounce jars, of red raspberry jelly at Phoenix, Ariz.

LABEL, IN PART: "Dixie Brand Pure Jelly * * * Red Raspberry."

NATURE OF CHARGE: Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for red raspberry jelly since it was made from a mixture composed of less than 45 parts by weight of the fruit juice ingredient, red raspberry, to each 55 parts by weight of one of the saccharine ingredients specified in the standard.

DISPOSITION: December 13, 1950. Default decree of condemnation. The court ordered that the product be delivered to charitable institutions.

VEGETABLES AND VEGETABLE PRODUCTS

16889. Adulteration of red kidney beans. U. S. v. 142 Bags * * *. (F. D. C. No. 29581. Sample No. 89835–K.)

LIBEL FILED: September 14, 1950, District of Nebraska.

ALLEGED SHIPMENT: On or about March 28, 1950, from Locke, N. Y.

PRODUCT: 142 100-pound bags of red kidney beans at Plattsmouth, Nebr.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: October 2, 1950. The Norfolk Packing Co., Plattsmouth, Nebr., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. Of 132 bags of the product which were seized, 116 were salvaged as fit for human consumption; the remaining bags were disposed of for use as stock feed or were destroyed.

16890. Adulteration of field corn. U. S. v. 220 Bushels * * *. (F. D. C. No. 29578. Sample No. 89836–K.)

LIBEL FILED: September 14, 1950, District of Nebraska.

ALLEGED SHIPMENT: On or about August 1, 1950, by John Nemiller, from rural Mineola, Iowa.

PRODUCT: 220 bushels of field corn at Plattsmouth, Nebr.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta.

DISPOSITION: October 2, 1950. The Norfolk Packing Co., Plattsmouth, Nebr., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. The product was mixed with minerals and molasses and was used for hog feed.

16891. Adulteration of canned okra. U. S. v. 467 Cases * * * (and 1 other seizure action). (F. D. C. Nos. 29838, 29941. Sample Nos. 81979–K, 34716–K.)

LIBELS FILED: October 17 and 24, 1950, Eastern District of South Carolina and Southern District of California.

ALLEGED SHIPMENT: On or about July 14, 18, and 28, 1950, by Pine Grove Canning Co., Inc., from St. Martinville, La.

PRODUCT: 467 cases and 68 cases of okra at Columbia, S. C., and Fresno, Calif., respectively. Each case contained 24 1-pound, 3-ounce cans.

LABEL, IN PART: (Can) "Pine Grove Brand Cut Okra Southern Style."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of its progressive decomposition.

DISPOSITION: December 1, 1950, and January 4, 1951. Default decrees of condemnation and destruction.

16892. Misbranding of canned spinach. U. S. v. 275 Cases * * *. (F. D. C. No. 29729. Sample No. 73031–K.)

LIBEL FILED: October 6, 1950, Southern District of New York.

ALLEGED SHIPMENT: On or about August 3, 1950, by Lord Mott Co., Inc., from Baltimore, Md.

PRODUCT: 275 cases, each containing 24 1-pound, 2-ounce cans, of spinach at New York, N. Y.

LABEL, IN PART: (Can) "A & P Young, Tender Spinach Grade A."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label statement "Grade A" was false and misleading since the product fell below the Grade A standard. (Examination showed that the article was below the Grade A standard as set forth by the Department of Agriculture since it contained grass and seed heads in excess of the amount permitted by the standard.)

DISPOSITION: December 14, 1950. Lord Mott Co., Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling, under the supervision of the Food and Drug Administration.

16893. Adulteration of sweet pickles. U. S. v. Mrs. Schlorer's, Inc., and Charles G. Schlorer. Pleas of nolo contendere. Fine of $150 against each defendant. (F. D. C. No. 28209. Sample Nos. 48585–K, 48586–K, 48610–K.)

INFORMATION FILED: February 14, 1950, Eastern District of Pennsylvania, against Mrs. Schlorer's, Inc., Philadelphia, Pa., and Charles G. Schlorer, president of the corporation.

ALLEGED SHIPMENT: Between the approximate dates of September 19 and October 17, 1949, from the State of Pennsylvania into the States of New Jersey and Delaware.

LABEL, IN PART: "Mrs. Schlorer's Sweet Midgets [or "Sweet Preserved Pickle Strips" or "Sweet Pickles"] Mrs. Schlorer's Incorporated Philadelphia, Pa. Manufacturers."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in part of filthy substances by reason of the presence of insects, insect parts, and rodent hair fragments; and, Section 402 (a) (4), they had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: January 15, 1951. Pleas of nolo contendere having been entered, the court fined each defendant $150.

TOMATOES AND TOMATO PRODUCTS

16894. Adulteration of canned tomatoes. U. S. v. 53 Cases * * *. (F. D. C. No. 29262. Sample No. 64400–K.)

LIBEL FILED: June 2, 1950, District of Minnesota.

ALLEGED SHIPMENT: On or about February 1, 1950, by the Fettig Canning Corp., from Elwood, Ind.

PRODUCT: 53 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Mankato, Minn.

LABEL, IN PART: "Nation's Garden Brand Ripe Tomatoes."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of fly eggs and maggots, and of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: December 15, 1950. Default decree of condemnation. The court ordered that the product be destroyed, or denatured for use as animal feed under the supervision of the Food and Drug Administration.

16895. Misbranding of canned tomatoes. U. S. v. 1,006 Cases * * *. (F. D. C. No. 29784. Sample No. 74821–K.)

LIBEL FILED: October 5, 1950, District of Connecticut.

ALLEGED SHIPMENT: On or about August 31, 1950, by the Lively Canning Corp., from Lively, Va.

PRODUCT: 1,006 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Bridgeport, Conn.

LABEL, IN PART: (Can) "Tomato Queen Brand."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned tomatoes since the drained weight was less than 50 percent of the weight of water required to fill the container, and its label failed to bear, as required by the regulations, a statement that the product fell below the standard.

DISPOSITION: December 15, 1950. The Lively Canning Corp., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled, under the supervision of the Food and Drug Administration.

16896. Adulteration of tomato catsup. U. S. v. 89 Cases * * *. (F. D. C. No. 30125. Sample No. 55058–K.)

LIBEL FILED: November 8, 1950, Northern District of Alabama.

ALLEGED SHIPMENT: On or about September 13, 1950, by Sweetsers Packing Co., Inc., from Sweetsers, Ind.

PRODUCT: 89 cases, each containing 24 14-ounce bottles, of tomato catsup at Jasper, Ala.

LABEL, IN PART: "Realm Tomato Catsup."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: December 13, 1950. Default decree of condemnation and destruction.

OIL

16897. Adulteration and misbranding of oil. U. S. v. 37 Cases * * * (and 8 other seizure actions). (F. D. C. Nos. 24916, 24920, 24923, 24925, 24929, 25000, 25002, 25775, 25981. Sample Nos. 2723–K, 2724–K, 4893–K, 6124–K, 8141–K, 8190–K, 12444–K, 12445–K, 12465–K, 12466–K, 12850–K, 12858–K, 45701–K to 45703–K, incl.)

LIBELS FILED: June 28, 29, and 30, July 2 and 7, September 23, and October 28, 1948, District of Massachusetts, Eastern District of Pennsylvania, District of Columbia, District of Connecticut, Northern District of Ohio, and the Eastern District of Missouri.

ALLEGED SHIPMENT: Between the approximate dates of March 9, 1948, and September 20, 1948, by Santuzza Oil Co., Inc., from Brooklyn, N. Y.

PRODUCT: Oil. 57 cases at Boston, Mass., 82 cases at Philadelphia, Pa., 37 cases at Washington, D. C., 73 cases at Hartford, Conn., 16 cases at Youngstown, Ohio, and 174 cases at St. Louis, Mo., each case containing 6 1-gallon cans; 19 cases, each containing 12 1-quart cans, and 5 cases, each containing 12 ½-gallon cans, at St. Louis, Mo.

LABEL, IN PART: (Can) "Santuzza Brand A Blend of 80% Corn and Peanut Oil 20% Pure Olive Oil" or "America's Finest A Blend of 90% Peanut Oil and 10% Pure Olive Oil."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, olive oil, had been in whole or in part omitted.

Misbranding, Section 403 (a), the label statements "20% Pure Olive Oil" and "10% Pure Olive Oil" were false and misleading as applied to articles containing little, if any, olive oil.

DISPOSITION: On November 18, 1948, the cases were ordered removed to the Southern District of New York and were consolidated. On December 20, 1950, Santuzza Oil Co., Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for repackaging and relabeling, under the supervision of the Federal Security Agency.

16898. Adulteration and misbranding of oil. U. S. v. 4 Cases, etc. (and 1 other seizure action). (F. D. C. Nos. 26448, 28021. Sample Nos. 48207–K, 48215–K, 48216–K, 48529–K.)

LIBELS FILED: February 2 and October 3, 1949, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about November 5 and 29 and December 8, 1948, and January 3 and September 6, 1949, by Santuzza Oil Co., Inc., from Brooklyn, N. Y.

PRODUCT: Oil. 4 cases, each containing 12 ½-gallon cans; 75 cases, each containing 6 1-gallon cans; and 8 cases, each containing 12 1-quart cans, at Philadelphia, Pa.

LABEL, IN PART: (Can) "Santuzza Brand A Blend of 80% Corn and Peanut Oil 20% Pure Olive Oil."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, olive oil, had been in whole or in part omitted.

Misbranding, Section 403 (a), the label statement "20% Pure Olive Oil" was false and misleading as applied to an article which contained little if any, olive oil.

DISPOSITION: On December 27, 1950, the two cases were consolidated and Santuzza Oil Co., Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for repackaging and relabeling, under the supervision of the Federal Security Agency.

POULTRY

16899. Adulteration of dressed poultry. U. S. v. Eagle Poultry Packers, Inc. Plea of nolo contendere. Fine $1,500. (F. D. C. No. 29620. Sample Nos. 13457–K, 73114–K.)

INFORMATION FILED: October 20, 1950, District of Delaware, against Eagle Poultry Packers, Inc., Frankford, Del.

ALLEGED SHIPMENT: On or about April 27 and May 4, 1950, from the State of Delaware into the States of New York and Pennsylvania.

LABEL, IN PART: (Portion) "Eagle Poultry."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of fecal material. In addition, 1 shipment consisted in part of a decomposed substance by reason of the presence of decomposed poultry, and was otherwise unfit for food by reason of the presence of extensively bruised poultry.

Further adulteration, Section 402 (a) (4), the product had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: December 11, 1950. A plea of nolo contendere having been entered, the court fined the corporation $1,500.

16900. Adulteration of frozen poultry. U. S. v. Harry Fortes (Meadowbrook Poultry Co.). Plea of nolo contendere. Fine, $300. (F. D. C. No. 29444. Sample No. 42068–K.)

INFORMATION FILED: August 3, 1950. Northern District of Illinois, against Harry Fortes, trading as the Meadowbrook Poultry Co., Chicago, Ill.

ALLEGED SHIPMENT: On or about April 26, 1949, from the State of Illinois into the State of Michigan.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a decomposed substance by reason of the presence of decomposed birds, and was otherwise unfit for food by reason of the presence of emaciated, badly discolored, and improperly bled birds; and, Section 402 (a) (5), it was in whole or in part the product of a diseased animal.

DISPOSITION: January 11, 1951. A plea of nolo contendere having been entered, the court imposed a fine of $300.

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Cudahy Packing Co.:
butter 16862
Dearmin & Co.:
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Dixie Preserves, Ltd.:
red raspberry jelly 16888
Eagle Poultry Packers, Inc.:
dressed poultry 16899
Elam Mills, Inc.:
yellow corn meal 16853
Enid Ice & Fuel Co., Inc.:
ice cream 16872
Exira Creamery Co.:
butter 16864
Fast Frozen Foods, Inc.:
frozen whiting 16878
Fettig Canning Corp.:
canned tomatoes 16894
Flag Pet Food Corp.:
canned dog food 16875
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Meadowbrook Poultry Co. *See* Fortes, Harry.
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Nashville Pure Milk Co.:
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Nemiller, John:
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Orchard Food Products Co.:
imitation raspberry-flavored peach filling 16887
Pearson & Co.:
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Poplar Canning Co.:
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butter 16860

[1] (16856) Preliminary injunction issued.

N. J. No.

Sweetsers Packing Co., Inc.:
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Swoope Milling Co., Inc.:
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Watt's Bakery, Inc.:
bread ---------- 16851
Yeaman, Sidney:
butter ---------- 16865
Zaffiro, Mariano:
frozen rosefish fillets ---------- 16876

[1] (16856) Preliminary injunction issued.

U. S. GOVERNMENT PRINTING OFFICE: 1951

FEDERAL SECURITY AGENCY

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

16901–16950

FOODS

The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Federal Security Agency. Published by direction of the Federal Security Administrator.

PAUL B. DUNBAR, *Commissioner of Food and Drugs.*

WASHINGTON, D. C., *May 2, 1951.*

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BEVERAGES AND BEVERAGE MATERIALS

16901. Adulteration of tomato juice. U. S. v. 545 Cases * * *. (F. D. C. No. 29885. Sample No. 55985–K.)

LIBEL FILED: On or about October 3, 1950, District of Kansas.

ALLEGED SHIPMENT: On or about May 24 and 26 and June 8, 1950, by the Bennett-Ray Canning Co., from Pharr, Tex.

PRODUCT: 545 cases, each containing 12 1-quart, 14-ounce cans, of tomato juice at Wichita, Kans.

LABEL, IN PART: "Don Rio Brand Tomato Juice."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: January 18, 1951. Default decree of condemnation and destruction.

16902. Adulteration of tomato juice. U. S. v. 358 Cases * * * (and 1 other seizure action). (F. D. C. Nos. 26477, 26549. Sample Nos. 20156–K, 20449–K.)

LIBELS FILED: On or about February 2 and 24, 1949, Western District of Missouri.

ALLEGED SHIPMENT: On or about November 18, 1948, and January 22 and 26, 1949, by the Vincennes Packing Corp., from Vincennes, Ind.

PRODUCT: 643 cases, each containing 24 1-pint, 2-ounce cans, of tomato juice at Kansas City, Mo.

LABEL, IN PART: (Can) "Good Things to Eat Brand Tomato Juice" or "Lee Tomato Juice."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: March 2, 1949. The Vincennes Packing Corp., claimant, having admitted the allegations of the libels, judgments of condemnation were entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

Attempted segregation of the fit from the unfit was unsuccessful in the lot comprising the "Good Things to Eat Brand," and the entire 203 cases which were seized of this lot were destroyed. In the lot comprising the "Lee Brand," segregation operations resulted in the destruction of 159 cases and the release of 101 cases.

CEREALS AND CEREAL PRODUCTS

FLOUR

Nos. 16903 to 16909 report actions involving flour that was insect- or rodent-infested, or both.

16903. Adulteration of flour. U. S. v. 186 Bags * * *. (F. D. C. No. 29927. Sample No. 76483–K.)

LIBEL FILED: October 11, 1950, Eastern District of Arkansas.

ALLEGED SHIPMENT: On or about January 16, 1950, from Enid, Okla.

PRODUCT: 186 25-pound bags of flour at Little Rock, Ark.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: November 29, 1950. Default decree of condemnation. The court ordered that the product be delivered to a State institution, for use as animal feed.

16904. Adulteration of flour. U. S. v. 182 Bags * * *. (F. D. C. No. 29898. Sample Nos. 84840–K, 84841–K.)

LIBEL FILED: September 25, 1950, Southern District of Ohio.

ALLEGED SHIPMENT: On or about May 5, 1950, from New Prague, Minn.

PRODUCT: 182 bags of flour at Cincinnati, Ohio.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and insect parts. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: November 8, 1950. J. W. Jaeger Co., Cincinnati, Ohio, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond to be denatured, under the supervision of the Food and Drug Administration, and used in the manufacture of liquid starch.

16905. Adulteration of flour. U. S. v. 25 Bags * * *. (F. D. C. No. 29890. Sample No. 84839–K.)

LIBEL FILED: September 20, 1950, Western District of Kentucky.

ALLEGED SHIPMENT: On or about May 9, and 24, 1950, from Hastings, Minn.

PRODUCT: 25 100-pound bags of flour at Louisville, Ky.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and insect parts. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: November 6, 1950. Default decree of condemnation. The court ordered that the product be delivered to a public institution, for use as animal feed.

16906. Adulteration of flour. U. S. v. 48 Bags * * *. (F. D. C. No. 29842. Sample No. 81571–K.)

LIBEL FILED: October 18, 1950, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about July 1, 1950, from Duluth, Minn.

PRODUCT: 48 100-pound bags of flour at Philadelphia, Pa., in the possession of William Lister.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: November 9, 1950. Decree of condemnation and destruction.

16907. Adulteration of phosphated flour and self-rising flour. U. S. v. 43 Bags, etc. (F. D. C. No. 29896. Sample Nos. 1984–K, 1985–K.)

LIBEL FILED: September 26, 1950, Middle District of Georgia.

ALLEGED SHIPMENT: On or about August 19, 1950, from White Water, Kans.

PRODUCT: 43 25-pound bags of phosphated flour and 31 50-pound bags of self-rising flour at Albany, Ga.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of insects. The products were adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: October 26, 1950. Default decree of condemnation. The court ordered that the products be delivered to a Federal institution, for use as animal feed.

16908. Adulteration of self-rising flour. U. S. v. 45 Bags * * *. (F. D. C. No. 29909. Sample No. 1987–K.)

LIBEL FILED: September 29, 1950, Middle District of Georgia.

ALLEGED SHIPMENT: On or about August 1, 1950, from Chattanooga, Tenn.

PRODUCT: 45 25-pound bags of self-rising flour at Valdosta, Ga.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: November 20, 1950. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for use as animal feed.

16909. Adulteration of bromated flour rye flour, cake flour, and plain flour. U. S. v. 15 Bags, etc. (F. D. C. No. 29797. Sample Nos. 82070–K to 82073–K, incl.)

LIBEL FILED: October 11, 1950, Southern District of Florida.

ALLEGED SHIPMENT: On or about February 23, July 10 and 26, and August 23, 1950, from Fort Worth, Tex., and Alton, Ill.

PRODUCT: 15 100-pound bags of bromated flour, 2 100-pound bags of rye flour, 44 100-pound bags of cake flour, and 15 100-pound bags of plain flour at Tampa, Fla.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of insects. The products were adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: On November 15, 1950, a claim having been entered for the products, judgment of condemnation was entered. The decree provided that the products be released under bond to be reprocessed under the supervision of the Food and Drug Administration, and that upon failure to comply with the provisions of the decree, the products be destroyed by the United States marshal. On December 13, 1950, the claimant having withdrawn its answer and claim, the products were destroyed.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS

16910. Adulteration of white shelled corn. U. S. v. 59 Unlabeled Bags * * *. (F. D. C. No. 29930. Sample No. 32733–K.)

LIBEL FILED: October 11, 1950, Southern District of California.

ALLEGED SHIPMENT: On or about July 21, 1950, by the Continental Grain Co., from Kansas City, Mo.

PRODUCT: 59 100-pound unlabeled bags of white shelled corn at Fresno, Calif.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta.

DISPOSITION: December 26, 1950. Default decree of condemnation and destruction.

16911. Adulteration of brewers corn flakes. U. S. v. 200,000 Pounds * * *. (F. D. C. No. 29920. Sample No. 84978–K.)

LIBEL FILED: October 6, 1950, Southern District of Indiana.

ALLEGED SHIPMENT: On or about September 5, 13, and 19, 1950, from Paris, Ill.

PRODUCT: 200,000 pounds of brewers corn flakes at Terre Haute, Ind.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of being insect-infested. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: October 31, 1950. Terre Haute Brewing Co., Inc., claimant having consented to the condemnation of the product, the court ordered that the product be condemned and released under bond to be denatured for use as animal feed, under the supervision of the Food and Drug Administration.

16912. Adulteration of brewers malt. U. S. v. 11 Bags * * *. (F. D. C. No. 29883. Sample No. 84837–K.)

LIBEL FILED: September 19, 1950, Western District of Kentucky.

ALLEGED SHIPMENT: On or about August 11 and 31, 1950, from Manitowoc, Wis.

PRODUCT: 11 80-pound bags of brewers malt at Louisville, Ky.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and insect parts. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: November 6, 1950. Default decree of condemnation. The court ordered that the product be delivered to a public institution, for use as animal feed.

16913. Adulteration of brewers rice grits. U. S. v. 322 Bags * * *. (F. D. C. No. 29935. Sample No. 84855–K.)

LIBEL FILED: October 13, 1950, Western District of Kentucky.

ALLEGED SHIPMENT: On or about August 1, 1950, from Stuttgart, Ark.

PRODUCT: 322 100-pound bags of brewers rice grits at Louisville, Ky.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: November 3, 1950. Walton Rice Mills, Inc., Stuttgart, Ark., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reprocessing, under the supervision of the Federal Security Agency. The product was fumigated and cleaned. As a result of these operations, a total of 2,600 pounds of the product was found to be unfit and was disposed of as animal feed.

16914. Adulteration of rice. U. S. v. 43 Bales * * *. (F. D. C. No. 29889. Sample No. 72626–K.)

LIBEL FILED: September 21, 1950, Eastern District of Tennessee.

ALLEGED SHIPMENT: On or about December 27, 1949, from Stuttgart, Ark.

PRODUCT: 43 bales, each containing 30 1-pound bags, of rice at Chattanooga, Tenn.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and insect parts. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: December 5, 1950. Default decree of condemnation. The court ordered that the product be delivered to a charitable organization, for use as animal feed.

16915. Adulteration of cake mix and fudge mix. U. S. v. 18 Packages, etc. (F. D. C. No. 29919. Sample Nos. 78682–K, 78683–K.)

LIBEL FILED: October 6, 1950, District of Idaho.

ALLEGED SHIPMENT: On or about December 4, 1947, and May 4, 1948, from Norristown, Pa.

PRODUCT: 18 10-ounce packages of cake mix, and 17 cases, each containing 24 11-ounce packages, of fudge mix at Boise, Idaho.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of insects. The products were adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: October 30, 1950. Default decree of forfeiture and destruction.

CHOCOLATE, SUGAR, AND RELATED PRODUCTS*

CANDY

16916. Adulteration of candy. U. S. v. 24 Cases * * * (and 4 other seizure actions). (F. D. C. Nos. 29943, 29944, 29951, 29956, 29972. Sample Nos. 75389–K, 85250–K, 85256–K, 85257–K, 88614–K.)

LIBELS FILED: Between October 20 and November 2, 1950, District of Colorado and Northern District of Iowa.

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*See also No. 16915.

ALLEGED SHIPMENT: On or about October 2, 3, and 17, 1950, by the Euclid Candy Co., from Chicago, Ill.

PRODUCT: 134 cases each containing 100 candy bars at Denver, Colo., and Waterloo, Charles City, and Mason City, Iowa.

LABEL, IN PART: "Net Weight 2½-Oz. Euclid's Jumbo Candy Bar."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects and insect parts; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: November 20 and 27 and December 5, 1950. Default decrees of condemnation and destruction.

16917. Adulteration of candy. U. S. v. 36 Cases * * *. (F. D. C. No. 29957. Sample No. 43367–K.)

LIBEL FILED: October 25, 1950, Eastern District of Michigan.

ALLEGED SHIPMENT: On or about October 2, 1950, by the Euclid Candy Co., from Chicago, Ill.

PRODUCT: 36 cases each containing 100 2½-ounce candy bars at Jackson, Mich.

LABEL, IN PART: "Euclid's Jumbo Candy Bar."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and insect parts; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: December 18, 1950. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for use as animal feed.

16918. Adulteration of pecan pralines. U. S. v. 10 Cases, etc. (F. D. C. No. 29940. Sample Nos. 77420–K, 77422–K.)

LIBEL FILED: October 23, 1950, Southern District of Illinois.

ALLEGED SHIPMENT: On or about May 24, 1950, from Pascagoula, Miss.

PRODUCT: 10 cases each containing 12 1-pound cans of pecan pralines, and 10 cases each containing 12 boxes and each box containing 10 pralines at Peoria, Ill.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of mold. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: November 14, 1950. Default decree of condemnation and destruction.

16919. Misbranding of candy. U. S. v. 9 Cases * * *. (F. D. C. No. 29912. Sample No. 79138–K.)

LIBEL FILED: October 4, 1950, District of Idaho.

ALLEGED SHIPMENT: On or about September 20, 1950, by the Hamilton Candy Co., from Tacoma, Wash.

PRODUCT: 9 cases each containing 100 candy bars at Idaho Falls, Idaho.

LABEL, IN PART: "Cherry Nip Coconut Net Wt. 1¾ Oz."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents. (The candy bars were short of the declared weight.)

DISPOSITION: November 21, 1950. Default decree of forfeiture. The court ordered that the product be delivered to a charitable institution.

CHOCOLATE

16920. Adulteration of chocolate. U. S. v. 32 Cartons * * *. (F. D. C. No. 29906. Sample No. 77614–K.)

LIBEL FILED: September 27, 1950, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about June 1, 1950, from Buffalo, N. Y.

PRODUCT: 32 50-pound cartons of chocolate at St. Louis, Mo.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and insect webbing. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: October 12, 1950. The Mavrakos Candy Co., St. Louis, Mo., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. The product was salvaged by scraping and brushing. As a result of these operations, 1,550 pounds of chocolate were found fit for human consumption, and 50 pounds were found unfit and were destroyed.

SIRUP

16921. Adulteration and misbranding of sorghum sirup. U. S. v. 13 Cans, etc. (F. D. C. No. 29936. Sample No. 76477–K.)

LIBEL FILED: October 19, 1950, Eastern District of Arkansas.

ALLEGED SHIPMENT: On or about August 29, 1950, by L. T. Thompson, from Durant, Okla.

PRODUCT: Sorghum sirup. 13 9-pound cans and 51 4½-pound cans at Benton, Ark.

LABEL, IN PART: "Sorghum Made of Cane Products Made For and Sold by L. T. Thompson."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), glucose had been substituted in part for sorghum.

Misbranding, Section 403 (a), the name "Sorghum" was false and misleading as applied to an article which contained glucose; Section 403 (e) (1), the article failed to bear a label containing the place of business of the manufacturer, packer, or distributor; and, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents since the label statement was not in terms of liquid measure.

DISPOSITION: November 22, 1950. Default decree of condemnation. The court ordered that the product be delivered to a State institution for its use and not for sale.

16922. Adulteration and misbranding of sorghum sirup. U. S. v. 41 Cans * * *. (F. D. C. No. 29939. Sample No. 76478–K.)

LIBEL FILED: October 19, 1950, Eastern District of Arkansas.

ALLEGED SHIPMENT: On or about September 6, 1950, by M. Dawson, from Jefferson, Tex.

PRODUCT: 41 ½-gallon cans of sirup at Little Rock, Ark. The product was in unlabeled cans and was represented to the purchaser as sorghum.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), glucose had been substituted in part for sorghum.

Misbranding, Section 403 (b), the article was offered for sale under the name of another food; Section 403 (e) (1), the article failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor; Section 403 (e) (2), the article failed to bear an accurate statement of the quantity of the contents; Section 403 (i) (1), the label of the article failed to bear the common or usual name of the article; and, Section 403 (i) (2), the article was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient.

DISPOSITION: November 22, 1950. Default decree of condemnation. The court ordered that the product be delivered to a State institution for its use and not for sale.

16923. Adulteration and misbranding of sorghum sirup. U. S. v. 42 Cases * * *. (F. D. C. No. 29283. Sample No. 51484–K.)

LIBEL FILED: On or about July 5, 1950, Southern District of Indiana.

ALLEGED SHIPMENT: On or about November 15, 1949, by Roy Lansaw & Son, from Joplin, Mo.

PRODUCT: 42 cases, each containing 6 4½-pound cans, of sorghum sirup at Evansville, Ind.

LABEL, IN PART: (Can) "Ozark Mountain Sorghum."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), cane sirup had been substituted in whole or in part for sorghum.

Misbranding, Section 403 (a), the label designation "Sorghum" was false and misleading.

DISPOSITION: September 5, 1950. Default decree of forfeiture. The court ordered that the product be delivered to a charitable institution.

16924. Adulteration and misbranding of sorghum sirup. U. S. v. 36 Cases * * *. (F. D. C. No. 29893. Sample No. 76680–K.)

LIBEL FILED: September 20, 1950, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about August 23, 1950, by Ford Bittle, from Nettleton, Ark.

PRODUCT: 36 cases, each containing 12 unlabeled cans, of sorghum sirup, and a number of loose labels at St. Louis, Mo.

LABEL, IN PART: (Loose labels) "Pure Cane Sorghum High Quality Full Flavor Made From Pure Cane Juice By E. A. Campbell And Sons, Route 1, Cedar Rapids, Iowa Net Weight 4½ Lbs. Or More."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), corn sirup and sugar had been substituted in part for sorghum.

Misbranding, Section 403 (a), the statements "Pure Cane Sorghum * * * Made From Pure Cane Juice," borne on the loose labels, were false and misleading as applied to an article consisting of a mixture of sorghum, corn sirup, and sugar.

DISPOSITION: October 18, 1950. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution.

16925. Adulteration and misbranding of sorghum sirup. U. S. v. 23 Cases * * *. (F. D. C. No. 29228. Sample No. 51483–K.)

LIBEL FILED: May 24, 1950, Southern District of Indiana.

ALLEGED SHIPMENT: On or about December 8, 1949, by L. W. Lansaw, from Joplin, Mo.

PRODUCT: 23 cases, each containing 12 4½-pound cans, of sorghum sirup at Boonville, Ind.

LABEL, IN PART: (Can) "Pure Benton County Sorghum Made And Sold By Sunny Slope Farm * * * Holladay, Tenn. R. F. D. 2."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a commercial glucose sirup had been substituted in whole or in part for sorghum.

Misbranding, Section 403 (a), the label statement "Sorghum" was false and misleading as applied to a commercial glucose sirup.

DISPOSITION: September 5, 1950. Default decree of forfeiture. The court ordered that the product be delivered to a State institution.

SUGAR

16926. Adulteration of sugar. U. S. v. 200 Sacks, etc. (and 1 other seizure action). (F. D. C. Nos. 29575, 29585. Sample Nos. 35610–K, 35616–K.)

LIBELS FILED: September 11 and 13, 1950, Northern District of California.

ALLEGED SHIPMENT: On or about August 21 and 25, 1950, by Sugarman Bros., from Seattle, Wash.

PRODUCT: Sugar. 200 50-pound sacks, 800 100-pound sacks, and 43,960 pounds of sugar in 1,090 sacks, at San Francisco, Calif. The product had been damaged by water during a fire on shipboard.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), a portion of the product consisted in whole or in part of a decomposed substance by reason of its fermentation. All of the product was unfit for food by reason of its offensive odor.

DISPOSITION: October 3, 1950. Harry Sugarman, trading as Sugarman Bros., San Francisco, Calif., claimant, having consented to the entry of decrees, judgments of condemnation were entered and the court ordered that the product be released under bond for reconditioning and cleaning, under the supervision of the Federal Security Agency. Reconditioning resulted in the recovery of 74,244 pounds from a gross weight of 87,380 pounds.

FRUITS AND VEGETABLES

CANNED FRUIT

16927. Misbranding of canned cherries. U. S. v. 99 Cases * * *. (F. D. C. No. 30295. Sample No. 90336–K.)

LIBEL FILED: November 27, 1950, Eastern District of Virginia.

ALLEGED SHIPMENT: On or about October 31, 1950, by the Western Oregon Packing Corp., from Corvallis, Oreg.

PRODUCT: 99 cases, each containing 6 cans, of cherries at Richmond, Va.

LABEL, IN PART: (Can) "Bellwood Pitted Light Sweet Royal Anne Cherries In Heavy Syrup Contents 6 Lbs. 11 Ozs."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product fell below the standard of quality for pitted canned cherries since it contained more than one pit in each 20 ounces of canned cherries, and the label failed to bear a statement that the product fell below the standard.

DISPOSITION: January 4, 1951. W. H. Williams & Co., claimant, having consented to the entry of a decree, judgment of forfeiture was entered and the court ordered that the product be released under bond for relabeling, under the supervision of the Food and Drug Administration.

DRIED FRUIT

16928. Adulteration of dried pears. U. S. v. 59 Cases * * *. (F. D. C. No. 30121. Sample No. 78352–K.)

LIBEL FILED: November 15, 1950, District of Montana.

ALLEGED SHIPMENT: On or about December 6, 1946, from San Jose, Calif.

PRODUCT: 59 25-pound cases of dried pears at Missoula, Mont.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: January 10, 1951. Default decree of condemnation. The court ordered that the product be denatured and delivered to a State institution, for use as animal feed.

16929. Adulteration of raisins. U. S. v. 244 Cases * * *. (F. D. C. No. 29952. Sample No. 85181–K.)

LIBEL FILED: October 24, 1950, District of Minnesota.

ALLEGED SHIPMENT: On or about August 5, 1950, from Fresno, Calif.

PRODUCT: 244 30-pound cases of raisins at Minneapolis, Minn.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: December 1, 1950. A default decree was entered providing for the destruction of the product, unless denatured for use as animal feed under the supervision of the Food and Drug Administration.

FROZEN FRUIT

16930. Adulteration of frozen strawberries. U. S. v. 300 Cans * * *. (F. D. C. No. 29288. Sample No. 70171–K.)

LIBEL FILED: June 30, 1950, District of Nebraska.

ALLEGED SHIPMENT: On or about May 7, 1950, by Baumer Food Products, Ponchatoula, La.

PRODUCT: 300 30-pound cans of frozen strawberries at Omaha, Nebr.

LABEL, IN PART: "Baumer's Cold Packed Strawberries."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of moldy berries.

DISPOSITION: July 25, 1950. The shipper having appeared as claimant and consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation of the moldy berries and decomposed matter from the strawberries. Segregation operations having been unsuccessful, on January 5, 1951, the court ordered that the product be destroyed.

VEGETABLES AND VEGETABLE PRODUCTS

16931. Adulteration of frozen brussels sprouts. U. S. v. 251 Cases * * *. (F. D. C. No. 29878. Sample Nos. 88145–K, 88146–K.)

LIBEL FILED: September 16, 1950, Western District of Texas.

ALLEGED SHIPMENT: On or about November 23, 1949, and January 13, 1950, by Honor Brand Frosted Foods, from Burbank and Los Angeles, Calif.

PRODUCT: Frozen brussels sprouts. 184 cases, each containing 48 10-ounce packages, and 67 cases, each containing 6 4-pound cartons, at El Paso, Tex.

LABEL, IN PART: "Honor Brand."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of larvae and aphids.

DISPOSITION: November 2, 1950. Default decree of condemnation and destruction.

16932. Misbranding of canned peas. U. S. v. 78 Cases * * *. (F. D. C. No. 29902. Sample No. 13748–K.)

LIBEL FILED: September 26, 1950, Middle District of Pennsylvania.

ALLEGED SHIPMENT: On or about August 15, 1950, by the Melrose Canning Co., from Melrose, Md.

PRODUCT: 78 cases, each containing 24 1-pound cans, of peas at Gettysburg, Pa.

LABEL, IN PART: (Can) "Evelyn Early June Peas."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the article fell below the standard of quality for canned peas since it was a smooth skin variety of peas and the alcohol-insoluble solids of the peas in the container were more than 23.5 percent, and its label failed to bear a statement that the article fell below such standard of quality.

DISPOSITION: January 4, 1951. Default decree of condemnation. The court ordered that the product be distributed to charitable institutions since it was fit for human consumption.

16933. Adulteration of canned black-eyed peas. U. S. v. 437 Cases * * *. (F. D. C. No. 29846. Sample No. 88303–K.)

LIBEL FILED: October 25, 1950, District of New Mexico.

ALLEGED SHIPMENT: On or about August 21 and September 5, 1950, by Plains Foods, Inc., from Plainview, Tex.

PRODUCT: 437 cases, each containing 24 1-pound, 3-ounce cans, of black-eyed peas at Clovis, N. Mex.

LABEL, IN PART: (Can) "Plainsun Brand Fresh Green Shelled Blackeye Peas."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), brine had been substituted in part for black-eyed peas. (Examination disclosed that the product contained excessive brine.)

DISPOSITION: January 9, 1951. Plains Foods, Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling and reconditioning, under the supervision of the Food and Drug Administration.

16934. Adulteration of dried black-eyed peas. U. S. v. 16 Bags * * *. (F. D. C. No. 29808. Sample No. 82086–K.)

LIBEL FILED: October 17, 1950, Middle District of North Carolina.

ALLEGED SHIPMENT: On or about September 27, 1950, from Mineola, Tex.

PRODUCT: 16 100-pound bags of dried black-eyed peas at Sanford, N. C.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: February 7, 1951. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution, for use as animal feed.

16935. Adulteration of canned meatless chop suey and chow mein. U. S. v. 258 Packages, etc. (F. D. C. No. 29900. Sample No. 60597–K.)

LIBEL FILED: October 5, 1950, Northern District of Illinois.

ALLEGED SHIPMENT: On or about August 17, 1950, from Denver, Colo. This was a return shipment.

PRODUCT: 258 packages each containing 1 can of meatless chop suey and 1 can of meatless chow mein, and 88 1-pound, 2-ounce cans, of meatless chop suey, at Chicago, Ill.

LABEL, IN PART: (Packages) "One Can Meatless Chop Suey With Mushrooms One Can Chow Mein Ready to Serve Chop Suey Mein Dinner"; (cans) "Packed By Min Sun Trading Co. Chicago, Illinois."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of decomposed substances. (Examination of the canned chop suey disclosed the presence of "flippers," "springers," and "swells," i. e., cans that had an abnormal external appearance indicating spoilage of their contents.)

DISPOSITION: November 8, 1950. Default decree of condemnation and destruction.

TOMATOES AND TOMATO PRODUCTS*

16936. Adulteration of canned tomatoes. U. S. v. 1,000 Cases * * *. (F. D. C. No. 29882. Sample No. 84464–K.)

LIBEL FILED: September 15, 1950, Southern District of Ohio.

ALLEGED SHIPMENT: On or about August 9, 1950, by Albert W. Sisk & Son, from Cambridge, Md.

PRODUCT: 1,000 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Portsmouth, Ohio.

LABEL, IN PART: "Cardinal Brand Tomatoes * * * Packed By Walter T. Andrews & Son Cambridge, Maryland."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance. (Examination disclosed the presence of "hard swells" and "springers," i. e., cans that had an abnormal external appearance indicating spoilage of their contents.)

DISPOSITION: November 8, 1950. Walter T. Andrews & Son, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond, for segregation of the fit from the unfit portion, under the supervision of the Food and Drug Administration. 962¼ cases were segregated as fit for human consumption; the remainder were destroyed.

16937. Adulteration of canned tomatoes. U. S. v. 378 Cases * * *. (F. D. C. No. 29855. Sample No. 81791–K.)

LIBEL FILED: October 30, 1950, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about October 16, 1950, by the Peter Capizola Canning Co., from Buena, N. J.

PRODUCT: 378 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Philadelphia, Pa.

LABEL, IN PART: (Can) "Kellogg's Merion Brand Tomatoes."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of fly eggs and maggots; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: November 28, 1950. Default decree of condemnation and destruction.

16938. Misbranding of canned tomatoes. U. S. v. 55 Cases * * *. (F. D. C. No. 29783. Sample Nos. 78460–K, 78464–K.)

LIBEL FILED: October 6, 1950, Western District of Washington.

ALLEGED SHIPMENT: On or about August 15, 1950, by Seiter's, Inc., from Post Falls, Idaho.

PRODUCT: 55 cases, each containing 6 6-pound, 6-ounce cans, of tomatoes at Seattle, Wash.

LABEL, IN PART: (Can) "Lake City Brand Tomatoes."

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*See also Nos. 16901, 16902.

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the quality of the article fell below the standard of quality for canned tomatoes, and the label failed to bear a statement that the article fell below such standard. (Examination showed that the article was substandard in quality because the drained weight was less than 50 percent of the weight of water required to fill the container.)

DISPOSITION: December 28, 1950. Seiter's, Inc., Post Falls, Idaho, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling, under the supervision of the Food and Drug Administration.

16939. Adulteration of tomato puree. U. S. v. 2,374 Cases * * * (and 5 other seizure actions). (F. D. C. Nos. 29869 to 29874, incl. Sample Nos. 73871–K to 73873–K, incl., 73876–K to 73880–K, incl.)

LIBELS FILED: November 9, 1950, Southern District of New York.

ALLEGED SHIPMENT: On or about September 6, 21, and 25, 1950, by Saggese & Siccardi, Inc., from Hopewell, N. J.

PRODUCT: 3,018 cases, each containing 24 1-pound, 12-ounce cans, of tomato puree at New York, N. Y.

LABEL, IN PART: (Can) "La Signora Brand Tomato Puree."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: November 21 and December 13, 1950. Default decrees of condemnation and destruction.

NUTS AND NUT PRODUCTS*

16940. Adulteration of brazil nuts and mixed nuts. U. S. v. 636 Cartons, etc. (F. D. C. No. 29768. Sample Nos. 73032–K, 73033–K.)

LIBEL FILED: September 29, 1950, Southern District of New York.

ALLEGED SHIPMENT: On or about March 1, 1950 from Chicago, Ill.

PRODUCT: 636 cartons, each containing 25 1-pound bags, of brazil nuts, and 7,552 cases, each containing 25 1-pound bags, of mixed nuts, at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of decomposed substances by reason of the presence of moldy nuts, and were otherwise unfit for food by reason of the presence of rancid nuts. The articles were adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: November 15, 1950. Wm. A. Higgins & Co., Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for separation of the brazil nuts from the other nuts, and the subsequent segregation and destruction of all unfit brazil nuts, under the supervision of the Food and Drug Administration.

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*See also No. 16918.

16941. Adulteration of pecan halves. U. S. v. 12 Boxes * * *. (F. D. C. No. 28819. Sample No. 48878–K.)

LIBEL FILED: January 27, 1950, Middle District of Pennsylvania.

ALLEGED SHIPMENT: On or about December 29, 1949, by the Georgia Pecan Sales Co., from Albany, Ga.

PRODUCT: 12 25-pound boxes of pecan halves at Wilkes-Barre, Pa.

LABEL, IN PART: "Amber Pecan Halves."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: December 8, 1950. Default decree of condemnation and destruction.

16942. Adulteration of walnuts. U. S. v. 28 Bags * * *. (F. D. C. No. 29887. Sample No. 77559–K.)

LIBEL FILED: September 19, 1950, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about December 16, 1948, from Dundee, Oreg.

PRODUCT: 28 100-pound bags of walnuts at St. Louis, Mo.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect-damaged nuts, and of a decomposed substance by reason of the presence of moldy nuts. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: October 12, 1950. Default decree of condemnation and destruction.

16943. Adulteration of peanut butter. U. S. v. 15 Cases, etc. (F. D. C. No. 30233. Sample Nos. 75274–K, 75276–K, 75277–K.)

LIBEL FILED: November 8, 1950, District of New Mexico.

ALLEGED SHIPMENT: On or about September 16 and 19, 1950, by the Western Food Products Co., from Hutchinson, Kans.

PRODUCT: Peanut butter. 15 cases, each containing 24 8¾-ounce jars, 24 cases, each containing 12 24-ounce jars, and 24 cases, each containing 12 2-pound jars, at Farmington, N. Mex.

LABEL, IN PART: (Jar) "Rich-Nut Peanut Butter."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: December 11, 1950. Default decree of condemnation and destruction.

POULTRY

16944. Adulteration of dressed poultry. U. S. v. 372 Pounds * * * (and one other seizure action). F. D. C. Nos. 29866, 29867. Sample Nos. 73144–K to 73146–K, incl.)

LIBELS FILED: November 9 and 21, 1950, Southern District of New York.

ALLEGED SHIPMENT: On or about October 19 and 20, 1950, by the Paramount Poultry Sales Co., Harbeson, Del.

PRODUCT: 1,048 pounds of dressed poultry at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of birds contaminated with excreta; and, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal, or of an animal which had died otherwise than by slaughter.

DISPOSITION: December 4, 1950. Default decrees of condemnation and destruction.

16945. Adulteration of dressed poultry. U. S. v. 381 Pounds * * *. (F. D. C. No. 29835. Sample No. 73141–K.)

LIBEL FILED: October 19, 1950, Southern District of New York.

ALLEGED SHIPMENT: On or about October 4, 1950, by Rockland Poultry Co., Inc., from Rockland, Maine.

PRODUCT: 381 pounds of dressed poultry in 5 unlabeled crates at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article was unfit for food by reason of the presence of emaciated birds; and, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal, or of an animal which had died otherwise than by slaughter.

DISPOSITION: November 13, 1950. Default decree of condemnation and destruction.

16946. Misbranding of frozen chicken à la king. U. S. v. 45 Cases * * *. (F. D. C. No. 29929. Sample Nos. 35647–K, 35650–K.)

LIBEL FILED: October 13, 1950, Northern District of California.

ALLEGED SHIPMENT: On or about July 10 and August 9, 1950, by Chet's Famous Foods, from Eugene, Oreg.

PRODUCT: 45 cases, each containing 36 12-ounce cartons, of frozen chicken à la king at San Jose, Calif.

LABEL, IN PART: "Chet's Famous Foods Brand Chicken A La King."

NATURE OF CHARGE: Misbranding, Section 403 (k), the article contained artificial coloring and failed to bear labeling stating that fact.

DISPOSITION: November 29, 1950. Default decree of condemnation and destruction.

SPICES, FLAVORS, AND SEASONING MATERIALS

16947. Adulteration of pepper hulls. U. S. v. John N. Wright, Jr. Plea of guilty. Fine of $200, plus costs. (F. D. C. No. 29650. Sample Nos. 79648–K, 81028–K.)

INFORMATION FILED: November 15, 1950, District of Maryland, against John N. Wright, Jr., Federalsburg, Md.

ALLEGED SHIPMENT: On or about March 30 and April 24, 1950, from the State of Maryland into the States of Pennsylvania and Massachusetts.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of vinegar flies, maggots, larval head capsules, insect fragments, mites, aphids, rodent hair fragments, and feather fragments; and, Section 402 (a) (4), it had been prepared and packer under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: November 15, 1950. A plea of guilty having been entered, the court imposed a fine of $200, plus costs.

16948. Adulteration of poppy seed. U. S. v. 12 Bags * * *. (F. D. C. No. 29913. Sample Nos. 77090–K, 77091–K.)

LIBEL FILED: October 4, 1950, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about July 18, 1950, from Baltimore, Md.

PRODUCT: 12 100-pound bags of poppy seed at St. Louis, Mo.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: November 3, 1950. The St. Louis Bakers Cooperative Assn., St. Louis, Mo., having appeared as claimant, the court ordered the product released under bond, to be reconditioned under the supervision of the Food and Drug Administration. Of the 14 100-pound bags which had been seized, reconditioning operations resulted in the segregation and salvage of 1,162 pounds of the product as fit for human use; 146 pounds were to be used for bird feed; and the remaining 92 pounds were destroyed.

16949. Adulteration and misbranding of oil of lemon. U. S. v. 8 Tins * * *. (F. D. C. No. 30135. Sample No. 55996–K.)

LIBEL FILED: November 15, 1950, District of Kansas.

ALLEGED SHIPMENT: On or about September 14, 1950, by Berje Chemical Products, Inc., from New York, N. Y.

PRODUCT: 8 25-pound tins of oil of lemon at Kansas City, Kans. Analysis showed that the product was not "Oil of Lemon U. S. P."

LABEL, IN PART: "Oil of Lemon, Calif. U. S. P., C. P."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a substance which was not genuine oil of lemon had been substituted in whole or in part for "Oil of Lemon U. S. P."

Misbranding, Section 403 (a), the label designation "Oil of Lemon, Calif. U. S. P., C. P." was false and misleading as applied to an article that was not genuine oil of lemon.

DISPOSITION: January 17, 1951. Default decree of condemnation and destruction.

16950. Adulteration and misbranding of soybean condiment and misbranding of soy sauce. U. S. v. 15 Cases * * * (and 1 other seizure action). (F. D. C. No. 29709. Sample Nos. 35059–K, 35060–K.)

LIBELS FILED: September 6, 1950, District of Hawaii.

ALLEGED SHIPMENT: On or about August 2, 1950, by the Wing Nien Soy Sauce Mfg. Co., from San Francisco, Calif.

PRODUCT: 15 cases, each containing 24 jars, of soybean condiment, and 5 cases, each containing 12 bottles, of soy sauce at Honolulu, T. H.

LABEL, IN PART: (Jar) "Net Wt. ½ Lb. Longevity Brand Soy Bean Condiment Soy Bean, Wheat, Salt, Water and less than 1/10 of 1% Benzoate of Soda"; (bottle) "Wing Brand Oriental Style Soy Sauce Ingredients: Soya Beans, Wheat, Salt and Sugar Net Contents 1 Pint 8 Oz."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the soybean condiment consisted in whole or in part of a filthy substance by reason of the presence of insects and insect parts.

Misbranding, Section 403 (a), the statement "Wheat" on the label of the soybean condiment was false and misleading as applied to an article which did not contain wheat; Section 403 (e) (2), the soy sauce failed to bear a label containing an accurate statement of the quantity of the contents (the article was short of the declared volume); Section 403 (i) (2), the label of the soybean condiment failed to bear the common or usual name of each ingredient contained therein since the presence of sesame seed was not declared; and, Section 403 (k), the soy sauce contained a chemical preservative, sodium benzoate, and it failed to bear labeling stating that fact.

DISPOSITION: September 21, 1950. The shipper of the products having admitted the allegations of the libels and consented to the entry of decrees, judgments of condemnation were entered and the court ordered that the products be destroyed.

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FEDERAL SECURITY AGENCY

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

16951–17000

FOODS

The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Federal Security Agency, and include, where indicated, the results of investigations of the Agency, prior to the institution of the proceedings. Published by direction of the Federal Security Administrator.

PAUL B. DUNBAR, *Commissioner of Food and Drugs.*

WASHINGTON, D. C., *May 11, 1951.*

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CEREALS AND CEREAL PRODUCTS

BAKERY PRODUCTS

16951. Adulteration of ice cream cones. U. S. v. 599 Cases * * *. (F. D. C. No. 29899. Sample No. 84834–K.)

LIBEL FILED: September 25, 1950, Southern District of Ohio.

ALLEGED SHIPMENT: On or about August 23, 1950, by Hudson Cone Co., Inc., from Jersey City, N. J.

PRODUCT: 599 cases each containing 5,000 ice cream cones at Cincinnati, Ohio.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects, insect parts, and cat hairs; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: November 17, 1950. The Marshmallow Products Co., Cincinnati, Ohio, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be converted into animal feed, under the supervision of the Food and Drug Administration.

FLOUR

Nos. 16952 to 16961 report actions involving flour that was insect- or rodent-infested or both.

16952. Adulteration of flour. U. S. v. 244 Unlabeled Bags * * *. (F. D. C. No. 29852. Sample No. 81578–K.)

LIBEL FILED: October 27, 1950, District of New Jersey.

ALLEGED SHIPMENT: On or about August 17, 1950, from Magnolia, Ohio.

PRODUCT: 244 unlabeled bags, each containing 100 pounds, of flour at Trenton, N. J., in possession of A. Exton & Co.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: November 27, 1950. A. Exton & Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond and delivered to a foundry, under the supervision of the Food and Drug Administration. Only 75 100-pound bags of flour were seized, and these were delivered to a foundry, for use in making molds.

16953. Adulteration of flour. U. S. v. 25 Bags, etc. (F. D. C. No. 29905. Sample Nos. 75038–K, 75039–K.)

LIBEL FILED: December 5, 1950, District of Colorado.

ALLEGED SHIPMENT: On or about August 9, 1950, from Ogden, Utah.

PRODUCT: Flour. 25 100-pound bags and 60 50-pound bags at Colorado Springs, Colo., in possession of the Puffer Mercantile Co.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: December 13, 1950. Default decree of condemnation. The court ordered that the product be sold for use as animal feed, and that it be prepared for such use under the supervision of the Food and Drug Administration.

16954. Adulteration of flour. U. S. v. 53 Bags * * *. (F. D. C. No. 29914. Sample No. 76823–K.)

LIBEL FILED: October 3, 1950, Western District of Tennessee.

ALLEGED SHIPMENT: On or about August 2, 1950, from Louisville, Ky.

PRODUCT: 53 100-pound bags of flour at Memphis, Tenn.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: December 4, 1950. Default decree of condemnation. The court ordered that the product be delivered to a public institution for conversion into stock feed, under the supervision of the Food and Drug Administration.

16955. Adulteration of flour. U. S. v. 39 Bags * * *. (F. D. C. No. 29847. Sample No. 81576–K.)

LIBEL FILED: October 24, 1950, District of New Jersey.

ALLEGED SHIPMENT: On or about July 24, 1950, from Buffalo, N. Y.

PRODUCT: 39 100-pound bags of flour at Trenton, N. J.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: December 4, 1950. Default decree of condemnation and destruction.

16956. Adulteration of flour. U. S. v. 27 Bags * * *. (F. D. C. No. 29926. Sample No. 85841–K.)

LIBEL FILED: On or about October 11, 1950, Eastern District of Louisiana.

ALLEGED SHIPMENT: On or about June 1, 1950, from Seattle, Wash.

PRODUCT: 27 100-pound bags of flour at New Orleans, La.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance. It was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: December 4, 1950. Default decree of condemnation and destruction.

16957. Adulteration of flour. U. S. v. 49 Bags * * *. (F. D. C. No. 29877. Sample No. 81878–K.)

LIBEL FILED: November 15, 1950, Southern District of Florida.

ALLEGED SHIPMENT: On or about July 12, 1950, from Springfield, Ill.

PRODUCT: 49 25-pound bags of flour at West Palm Beach, Fla.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: January 10, 1951. Default decree of condemnation and destruction.

16958. Adulteration of flour. U. S. v. 9 Bags * * *. (F. D. C. No. 30123. Sample No. 75282–K.)

LIBEL FILED: November 13, 1950, District of Colorado.

ALLEGED SHIPMENT: On or about September 21, 1950, from Ogden, Utah.

PRODUCT: 9 100-pound bags of flour at Denver, Colo., in possession of the Rocky Mountain Mercantile Co.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: January 4, 1951. Default decree of condemnation. The court ordered that the product be sold for use as animal feed, and that it be prepared for such use under the supervision of the Food and Drug Administration.

16959. Adulteration of flour. U. S. v. 28 Bags * * *. (F. D. C. No. 29803. Sample No. 82074–K.)

LIBEL FILED: October 18, 1950, Southern District of Florida.

ALLEGED SHIPMENT: On or about August 14, 1950, from Enid, Okla.

PRODUCT: 28 25-pound bags of flour at Tampa, Fla.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: November 30, 1950. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for use as animal feed.

16960. Adulteration of self-rising flour and phosphated flour. U. S. v. 43 Bags, etc. (F. D. C. No. 29798. Sample Nos. 82066–K to 82069–K, incl.)

LIBEL FILED: October 11, 1950, Southern District of Florida.

ALLEGED SHIPMENT: On or about May 30, June 24, and July 29, 1950, from Salina, Kans., and Enid, Okla.

PRODUCT: 134 25-pound bags of self-rising flour and 82 25-pound bags of phosphated flour at Tampa, Fla.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of insects. The products were adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: November 20, 1950. Default decree of condemnation. The court ordered that the products be delivered to a Federal institution, for use as animal feed.

16961. Adulteration of self-rising flour. U. S. v. 25 Bags * * *. (F. D. C. No. 29910. Sample No. 1986–K.)

LIBEL FILED: October 2, 1950, Middle District of Georgia.

ALLEGED SHIPMENT: On or about August 17, 1950, from Louisville, Ky.

PRODUCT: 25 10-pound bags of self-rising flour at Valdosta, Ga.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: November 20, 1950. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for use as animal feed.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS

16962. Adulteration of rolled barley. U. S. v. 116 Unlabeled Bags * * *. (F. D. C. No. 30128. Sample No. 83180–K.)

LIBEL FILED: November 10, 1950, Northern District of Indiana.

ALLEGED SHIPMENT: On or about August 16, 1950, from Chicago, Ill.

PRODUCT: 116 100-pound unlabeled bags of rolled barley at South Bend, Ind.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: December 29, 1950. Default decree of condemnation and destruction.

16963. Adulteration of barley malt. U. S. v. 173 Bags * * *. (F. D. C. No. 29931. Sample No. 78699–K.)

LIBEL FILED: October 12, 1950, District of Idaho.

ALLEGED SHIPMENT: On or about July 9, 1950, from Chicago, Ill.

PRODUCT: 173 bags, each containing 100 pounds, of barley malt at Boise, Idaho, in the possession of Bohemian Breweries, Inc.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent urine and rodent excreta; and, Section 402 (a) (4), the product had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: December 19, 1950. Julio Echevarria, owner and claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond, to be used for animal feed under the supervision of the Food and Drug Administration.

16964. Adulteration of canned hominy. U. S. v. 87 Cases, etc. (F. D. C. No. 29851. Sample Nos. 88304–K to 88306–K, incl.)

LIBEL FILED: November 1, 1950, District of New Mexico.

ALLEGED SHIPMENT: On or about July 5 and August 21, 1950, by the Marshall Canning Co., from Sugar Land, Tex.

PRODUCT: Hominy. 87 cases, each containing 24 15-ounce cans, and 401 cases, each containing 24 1-pound, 4-ounce cans, at Clovis, N. Mex.

LABEL, IN PART: (Can) "White Swan Brand * * * Hominy."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and insect parts.

DISPOSITION: January 19, 1951. The sole intervener having withdrawn its claim, judgment of condemnation was entered and the court ordered that the product be delivered to a charitable institution, for use as animal feed.

16965. Adulteration of unpopped popcorn. U. S. v. 117 Boxes, etc. (F. D. C. No. 29947. Sample Nos. 85247–K, 85248–K.)

LIBEL FILED: October 24, 1950, District of Minnesota.

ALLEGED SHIPMENT: On or about September 23, 1950, by the Central Popcorn Co., from Schaller, Iowa.

PRODUCT: Unpopped popcorn. 117 boxes, each containing 24 1-pound bags, and 21 100-pound bags, at Minneapolis, Minn.

LABEL, IN PART: (Bags) "Bango * * * Pop Corn" or "Bango Brand Hybrid White Hulless Pop Corn."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects, insect fragments, rodent hairs, and insect- and rodent-damaged kernels; and, Section 402 (a) (4), the product had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: December 18, 1950. Default decree of condemnation. The court ordered that the product be destroyed unless properly denatured for use as animal feed, under the supervision of the Food and Drug Administration.

16966. Adulteration of unpopped popcorn. U. S. v. 199 Cases * * *. (F. D. C. No. 30245. Sample No. 81648–K.)

LIBEL FILED: November 10, 1950, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about September 18, 1950, by the Ronald Meyer Popcorn Co., from Carnarvon, Iowa.

PRODUCT: 199 cases, each containing 24 10-ounce cans, of unpopped popcorn at Philadelphia, Pa.

LABEL, IN PART: (Can) "Mor-Zip Brand Pop Corn A. S. Yellow Hybrid Variety."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect- and rodent-damaged kernels, rodent hairs, and insect fragments; and, Section 402 (a) (4), the article had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: December 4, 1950. The shipper having consented to the destruction of the product, judgment of condemnation was entered and the court ordered that the product be destroyed.

16967. Adulteration of unpopped popcorn. U. S. v. 27 Cases * * *. (F. D. C. No. 28873. Sample No. 59307–K.)

LIBEL FILED: February 23, 1950, Western District of Michigan.

ALLEGED SHIPMENT: On or about December 16, 1949, and January 5, 1950, by the Better Taste Popcorn Co., from Anderson, Ind.

PRODUCT: 27 cases, each containing 24 16-ounce bags, of unpopped popcorn at Grand Rapids, Mich.

LABEL, IN PART: "Davis Hybrid Pop Corn."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent-gnawed and insect-damaged kernels, insect fragments, and rodent hairs; and, Section 402 (a) (4), the product had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: February 14, 1951. The Better Taste Popcorn Co., claimant, having withdrawn its answer and petition for release and having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be destroyed.

16968. Adulteration of uncoated rice. U. S. v. 50 Bags * * *. (F. D. C. No. 29908. Sample No. 84195–K.)

LIBEL FILED: September 29, 1950, Southern District of Ohio.

ALLEGED SHIPMENT: On or about November 17 and December 8, 1949, from Harrisburg, Ark.

PRODUCT: 50 bags of uncoated rice at Cincinnati, Ohio.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and insect fragments. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: January 2, 1951. The Baltimore & Ohio Warehouse, owner, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond for denaturing and conversion into stock feed, under the supervision of the Food and Drug Administration.

DAIRY PRODUCTS

BUTTER

16969. Adulteration of butter. U. S. v. Milnor Farmers Cooperative Creamery & Produce Assn., a corporation, and Philip O. Augdahl. Pleas of guilty. Corporation fined $750, plus costs; individual defendant fined $250. (F. D. C. No. 30059. Sample No. 85629–K.)

INFORMATION FILED: December 18, 1950, District of North Dakota, against the Milnor Farmers Cooperative Creamery & Produce Assn., Milnor, N. Dak., and Philip O. Augdahl, manager of the corporation.

ALLEGED SHIPMENT: On or about August 30, 1950, from the State of North Dakota into the State of Minnesota.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insect fragments, setae, manure, rat or mouse hairs, insect eggs, moth scales, and mites.

DISPOSITION: January 9, 1951. Pleas of guilty having been entered, the court imposed a fine of $750, plus costs, against the corporation and a fine of $250 against the individual defendant.

16970. Adulteration of butter. U. S. v. Glenn F. Borg (Golden Valley Creamery). Plea of guilty. Fine of $500, plus costs. (F. D. C. No. 30066. Sample No. 73853–K.)

INFORMATION FILED: December 18, 1950, District of North Dakota, against Glenn F. Borg, trading as the Golden Valley Creamery, Park River, N. Dak.

ALLEGED SHIPMENT: On or about July 7, 1950, from the State of North Dakota into the State of New York.

LABEL, IN PART: "Butter Distributed by Hunter, Walton & Co. New York."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insects, insect fragments, manure, feather fragments, rodent hairs, and sediment; and, Section 402 (a) (4), the product had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: January 9, 1951. A plea of guilty having been entered, the court imposed a fine of $500, plus costs.

16971. Misbranding of butter. U. S. v. Kent Products, Inc., Howard E. Kent, and George L. Sproull. Plea of guilty entered for corporation; plea of nolo contendere entered for individual defendants. Corporation fined $1,000, plus costs; charges against individual defendants dismissed. (F. D. C. No. 3002. Sample Nos. 70227–K, 70228–K, 70234–K.)

INFORMATION FILED: November 29, 1950, Western District of Missouri, against Kent Products, Inc., Kansas City, Mo., Howard E. Kent, president, and George L. Sproull, plant superintendent.

ALLEGED VIOLATION: On or about January 12, 1942, the defendants gave to a firm at North Kansas City, Mo., a guaranty to the effect that butter sold or delivered under the guaranty would be neither adulterated nor misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act.

On or about May 15 and 19, 1950, the defendants sold and delivered under the guaranty, quantities of butter that were misbranded. The holder of the guaranty was engaged in the business of introducing into interstate commerce, butter supplied by the defendants.

LABEL, IN PART: (Portion) "One Pound Net Bluebonnet Brand Creamery Butter Manufactured By Harrow Taylor Butter Co."; (remainder) "Kroger's Country Club Quality Brand Roll Butter * * * One Pound Net Weight Distributed By The Kroger Grocery & Baking Co."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents since the prints contained less than the labeled "One Pound Net Weight" and "One Pound Net."

DISPOSITION: January 5, 1951. A plea of guilty having been entered for the corporation, the court fined the corporation $1,000, plus costs. The charges against the individual defendants were dismissed.

CHEESE

16972. Adulteration of processed cheese food and process cheese. U. S. v. 14 Cases * * * (and 1 other seizure action). (F. D. C. Nos. 29963, 29964. Sample Nos. 55053–K, 55055–K.)

LIBELS FILED: October 26, 1950, Northern District of Alabama.

ALLEGED SHIPMENT: On or about September 22 and 26, 1950, by H. M. Scott, Inc., from Sweetwater, Tenn.

PRODUCT: 14 cases, each containing 15 2-pound packages, of processed cheese food at Albertville, Ala., and 3 cases, each containing 6 5-pound packages, of process cheese at Florence, Ala.

LABEL, IN PART: (Packages) "Scott's Mountain Dale Brand Processed Cheese Food" and "Scott's Mountain Dale Pasteurized Process Cheese American."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of insect fragments and rodent hair fragments; and, Section 402 (a) (4), the articles had been prepared under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: December 1, 1950. Default decrees of condemnation and destruction.

16973. Adulteration of cheese food. U. S. v. 600 Packages * * *. (F. D. C. No. 30287. Sample No. 93085–K.)

LIBEL FILED: November 30, 1950, Southern District of Florida.

ALLEGED SHIPMENT: On or about June 2, 1950, by Clearfield Cheese Co., Inc., from Clinton, Mo.

PRODUCT: 600 2-pound packages of cheese food at Tampa, Fla.

RESULTS OF INVESTIGATION: Four of the six subdivisions of the sample of this product contained numerous clear crystals that felt hard and sharp to the tongue and teeth. The crystals were present throughout the entire cheese mass and could be picked out by visual examination; they were soluble and were identified as lactose hydrate crystals.

LABEL, IN PART: (Package) "Pasteurized Process Cheese Food Tastgood Brand."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product was unfit for food because of grittiness caused by numerous sharp crystals.

DISPOSITION: January 9, 1951. Default decree of condemnation and destruction.

EGGS

16974. Adulteration of frozen whole eggs. U. S. v. John L. Dick (Dick's Produce Co.). Plea of nolo contendere. Fine of $50, plus costs. (F. D. C. No. 29604. Sample No. 60227–K.)

INFORMATION FILED: July 27, 1950, Southern District of Iowa, against John L. Dick, trading as Dick's Produce Co., Colfax, Iowa.

ALLEGED SHIPMENT: On or about April 30, 1950, from the State of Iowa into the State of Illinois.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in part of a decomposed substance by reason of the presence of decomposed eggs.

DISPOSITION: November 13, 1950. A plea of nolo contendere having been entered, the court imposed a fine of $50, plus costs.

16975. Misbranding of eggs. U. S. v. 25 Cases * * *. (F. D. C. No. 29372. Sample No. 3383–K.)

LIBEL FILED: June 23, 1950, District of Columbia.

ALLEGED VIOLATION: Misbranding of eggs in interstate commerce in the District of Columbia.

PRODUCT: 25 cases, each containing 24 1-dozen cartons, of eggs at Washington, D. C., in the possession of Grande Valley Products, Inc.

LABEL, IN PART: "Eggs Graded & Dated Grade A Large."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label statement "Grade A" was false and misleading since 46.3 percent of the eggs were below Grade A.

DISPOSITION: July 6, 1950. Grande Valley Products, Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond, to be brought into compliance with the law, under the supervision of the Food and Drug Administration. The eggs were regraded, resulting in 383½ dozen Grade B eggs, 188 dozen Grade C eggs, and 23⅝ dozen check eggs. The remainder of the eggs were broken and rotten and were destroyed.

FEEDS AND GRAINS

16976. Adulteration of soybean oil meal, soybeans, and stock salt. U. S. v. 346 Bags, etc. (F. D. C. Nos. 29668, 29671. Sample Nos. 71037–K, 86134–K, 86135–K.)

LIBEL FILED: August 4, 1950, District of Arizona.

ALLEGED SHIPMENT: September 29, 1948, and January 19 and June 9, 1949, from Decatur, Ill., Denver, Colo., and San Francisco, Calif.

PRODUCT: 346 100-pound sacks of soybean oil meal, 26 100-pound sacks of soybeans, and 379 100-pound sacks of stock salt in the possession of the Showa Shoyu Brewing Corp., Glendale, Ariz.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of insects, rodent excreta, and rodent urine; and, Section 402 (a) (4), the products had been held under insanitary conditions whereby they may have become contaminated with filth. The products were adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: October 20, 1950. Norman T. Miles, temporary receiver for the Showa Shoyu Brewing Corp., bankrupt, having filed claim to the products, judgment of condemnation was entered and the court ordered that the products be released under bond for the purpose of converting them into animal feed or other nonhuman use, under the supervision of the Food and Drug Administration.

16977. Adulteration and misbranding of pulverized white oats. U. S. v. 600 Sacks * * *. (F. D. C. No. 29845. Sample No. 79406–K.)

LIBEL FILED: October 23, 1950, District of Massachusetts.

ALLEGED SHIPMENT: On or about September 12, 1950, by Wisconsin Milling Co., Inc., from Menomonie, Wis.

PRODUCT: 600 100-pound sacks of pulverized white oats at Taunton, Mass.

LABEL, IN PART: (Sack) "Standard Pulverized White Oats Analysis * * * Fibre 13.00%."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a mixture of pulverized oats with substantial quantities of ground weed seeds, dirt, and chaff had been substituted in part for pulverized oats.

Misbranding, Section 403 (a), the label statements "Pulverized White Oats * * * Fibre 13.00%" were false and misleading as applied to a product which consisted of a mixture of pulverized oats with substantial quantities of ground weed seeds, dirt, and chaff, and which contained 16 percent fiber.

DISPOSITION: January 12, 1951. Wisconsin Milling Co., Inc., Menomonie, Wis., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling, under the supervision of the Food and Drug Administration.

FISH AND SHELLFISH

16978. Adulteration of frozen whiting. U. S. v. 45 Cases * * *. (F. D. C. No. 29916. Sample No. 43363-K.)

LIBEL FILED: October 9, 1950, Northern District of Illinois.

ALLEGED SHIPMENT: On or about July 25, 1950, by Seafood Packers, Inc., from Provincetown, Mass.

PRODUCT: 45 10-pound cases of frozen whiting at Chicago, Ill.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a putrid substance by reason of the presence of putrid fish.

DISPOSITION: November 8, 1950. Default decree of condemnation and destruction.

16979. Adulteration of fresh oysters. U. S. v. 420 Pints, etc. (F. D. C. No. 30306. Sample Nos. 47299-K, 47300-K.)

LIBEL FILED: On or about November 30, 1950, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about November 15, 17, and 18, 1950, by Carol Dryden & Co., Inc., from Crisfield, Md.

PRODUCT: Fresh oysters. 420 pints of standards and 250 pints of selects at Pittsburgh, Pa.

LABEL, IN PART: (Can) "Pride of the Chesapeake Oysters * * * Oysters Standards" and "Silver Sea Oysters * * * Oysters Selects."

NATURE OF CHARGE: Adulteration, Section 402 (b) (4), water had been added to the article and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

DISPOSITION: December 1, 1950. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution.

FRUITS AND VEGETABLES

CANNED FRUIT

16980. Misbranding of canned cherries. U. S. v. 838 Cases * * *. (F. D. C. No. 30249. Sample No. 81750-K.)

LIBEL FILED: November 13, 1950, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about August 17, 1950, by the Fruit Belt Preserving Co., from East Williamson, N. Y.

PRODUCT: 838 cases, each containing 24 1-pound, 3-ounce cans, of cherries at Philadelphia, Pa.

LABEL, IN PART: "Frankford Brand Sour Pitted Red Cherries."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned cherries since more than 15 percent of the cherries in the container were blemished with scab and skin discoloration, and the label failed to bear, as required by the regulations, a statement that the product fell below the standard.

DISPOSITION: January 10, 1951. The shipper having appeared as claimant and consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled, under the supervision of the Food and Drug Administration.

FROZEN FRUIT

16981. Adulteration of frozen apricots. U. S. v. 21 Cases * * *. (F. D. C. No. 30145. Sample No. 77437–K.)

LIBEL FILED: On or about November 17, 1950, Southern District of Illinois.

ALLEGED SHIPMENT: On or about September 17, 1946, from Seattle, Wash.

PRODUCT: 21 cases, each containing 36 1-pound cartons, of frozen apricots at Springfield, Ill.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product was unfit for food by reason of its discoloration and disagreeable odor and taste. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: December 19, 1950. Default decree of condemnation and destruction.

VEGETABLES*

16982. Adulteration of dried beans. U. S. v. 7 Cases, etc. (F. D. C. No. 30234. Sample Nos. 82098–K, 82099–K.)

LIBEL FILED: November 8, 1950, Western District of North Carolina.

ALLEGED SHIPMENT: On or about August 8 and 23, 1949, from Indianapolis, Ind.

PRODUCT: Dried beans. 7 cases, each containing 18 2-pound bags, and 11 cases, each containing 24 1-pound bags, at Shelby, N. C.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: December 22, 1950. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution, for animal use only.

16983. Misbranding of canned peas. U. S. v. 38 Cases * * *. (F. D. C. No. 30265. Sample No. 75284–K.)

LIBEL FILED: November 20, 1950, District of Colorado.

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*See also No. 16976.

ALLEGED SHIPMENT: On or about August 29, 1950, by the Big Horn Canning Co., from Cowley, Wyo.

PRODUCT: 38 cases, each containing 24 cans, of peas at Denver, Colo.

LABEL, IN PART: (In large conspicuous type) "Cowley Sweet Peas"; (in small inconspicuous type) "Net Contents 1 Lb."

NATURE OF CHARGE: Misbranding, Section 403 (h) (2), the product fell below the standard of fill of container for canned peas, and the label failed to bear a statement that the product fell below the standard; Section 403 (a), the label statement "Size of Can No. 2" was false and misleading since the product was packed in No. 303 size cans; and, Section 403 (f), the quantity of contents statement, required by Section 403 (e) (2) of the Act, was not prominently placed on the label with such conspicuousness (as compared with other statements on the label) as to render it likely to be read by the ordinary individual under customary conditions of purchase and use.

DISPOSITION: January 5, 1951. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution.

16984. Adulteration of dried black-eyed peas. U. S. v. 54 Bags, etc. (F. D. C. No. 29849. Sample Nos. 82045–K, 82047–K.)

LIBEL FILED: October 27, 1950, Western District of North Carolina.

ALLEGED SHIPMENT: On or about July 2 and August 5, 1950, from Mineola, Tex.

PRODUCT: Dried black-eyed peas. 54 bags, a portion weighing 100 pounds and the remainder 90 pounds, and 50 25-pound bags, at Charlotte, N. C.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: December 26, 1950. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution, for use as animal feed.

TOMATOES AND TOMATO PRODUCTS

16985. Adulteration and misbranding of canned tomatoes. U. S. v. 98 Cases * * *. (F. D. C. No. 29778. Sample No. 81896–K.)

LIBEL FILED: October 3, 1950, Middle District of North Carolina.

ALLEGED SHIPMENT: On or about August 15, 1950, by C. C. Cole, from Hague, Va.

PRODUCT: 98 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Madison, N. C.

LABEL, IN PART: (Can) "Cole Brand Tomatoes."

NATURE OF CHARGE: Adulteration, Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality or strength.

Misbranding, Section 403 (g) (1), the product fell below the standard of identity for canned tomatoes since it contained added water, which is not permitted as an ingredient of canned tomatoes; and, Section 403 (h) (1), the product was substandard in quality since it contained tomato peel per pound of canned tomatoes in the container which covered an area of more than one square inch, and the label on the container failed to bear a statement that the product fell below the standard.

DISPOSITION: February 7, 1951. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution.

16986. **Adulteration of tomato puree. U. S. v. 33 Cases * * *.** (F. D. C. No. 29907. Sample No. 89750–K.)

LIBEL FILED: September 30, 1950, District of Nebraska.

ALLEGED SHIPMENT: On or about May 12, 1950, by the Los Fresnos Canning Co., from Los Fresnos, Tex.

PRODUCT: 33 cases, each containing 6 6-pound, 8-ounce cans, of tomato puree at Grand Island, Nebr.

LABEL, IN PART: (Can) "Garth Brand Tomato Puree."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of fly eggs and maggots.

DISPOSITION: November 27, 1950. Default decree of condemnation and destruction.

NUTS AND NUT PRODUCTS

16987. **Adulteration of cashew nuts. U. S. v. 58 Pounds * * *.** (F. D. C. No. 29960. Sample Nos. 75387–K, 75388–K.)

LIBEL FILED: October 27, 1950, District of Colorado.

ALLEGED SHIPMENT: On or about August 14 and 31, 1950, from New York, N. Y.

PRODUCT: 58 pounds of cashew nuts at Denver, Colo.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects and insect parts. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: December 5, 1950. Default decree of condemnation and destruction.

16988. **Adulteration of chestnuts. U. S. v. 19 Cases * * *.** (F. D. C. No. 30370. Sample No. 92089–K.)

LIBEL FILED: January 4, 1951, Southern District of New York.

ALLEGED SHIPMENT: On or about December 14, 1950, by the Anthony Scotto Co., from New York, N. Y., to Providence, R. I. The product was refused by the consignee and returned to the shipper.

PRODUCT: 19 cases, each containing 125 pounds, of chestnuts at New York, N. Y.

LABEL, IN PART: (Case) "Castagne Sterilizzate R J P & C Torono * * * Puca Naples."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of moldy nuts.

DISPOSITION: January 24, 1951. Default decree of condemnation and destruction.

16989. **Adulteration of shelled peanuts. U. S. v. 569 Bags * * *.** (F. D. C. No. 29982. Sample Nos. 50896–K, 50898–K.)

LIBEL FILED: November 7, 1950, Western District of Washington.

ALLEGED SHIPMENT: On or about September 23, 1950, by Portales Valley Mills, Inc., from Portales, N. Mex.

PRODUCT: 560 120-pound bags of shelled peanuts at Seattle, Wash.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects and insect-damaged nuts.

DISPOSITION: November 15, 1950. The Pacific Food Products Co., Seattle, Wash., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation, under the supervision of the Federal Security Agency. The segregation operations resulted in the release of 527 bags of the product as fit for human consumption, the denaturing of 19 bags for use as hog feed, and the destruction of 23 bags.

16990. Adulteration of peanut butter. U. S. v. 41 Cases, etc. (F. D. C. No. 30246. Sample Nos. 38414–K, 38415–K.)

LIBEL FILED: November 13, 1950, District of New Mexico.

ALLEGED SHIPMENT: On or about August 28 and September 12, 1950, by the Western Food Products Co., from Hutchinson, Kans.

PRODUCT: Peanut butter. 41 cases, each containing 24 10-ounce jars, and 45 cases, each containing 24 8¾-ounce jars, at Albuquerque, N. Mex.

LABEL, IN PART: (Jar) "Rich-Nut Peanut Butter."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect parts and (41-case lot only) rodent hair fragments; and, Section 402 (a) (4), the product had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: December 18, 1950. Default decree of condemnation and destruction.

POULTRY

16991. Adulteration of dressed poultry. U. S. v. 1,235 Pounds * * *. (F. D. C. No. 30258. Sample No. 73151–K.)

LIBEL FILED: November 16, 1950, Southern District of New York.

ALLEGED SHIPMENT: On or about November 2, 1950, by the Lipman Poultry Co., from Bangor, Maine.

PRODUCT: 1,235 pounds of dressed poultry, in 17 crates, at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of birds contaminated with fecal matter and dirt; and, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal, or of an animal which had died otherwise than by slaughter.

DISPOSITION: December 4, 1950. Default decree of condemnation and destruction.

16992. Adulteration of frozen poultry. U. S. v. 6,620 Pounds * * *. (F. D. C. No. 30262. Sample Nos. 73148–K to 73150–K, incl.)

LIBEL FILED: November 21, 1950, Southern District of New York.

ALLEGED SHIPMENT: On or about September 30 and October 13, 1950, by Randolph & Co., from Guthrie Center, Iowa.

PRODUCT: 6,620 pounds of frozen poultry, in 97 crates, at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal, or of an animal which had died otherwise than by slaughter.

DISPOSITION: December 5, 1950. Default decree of condemnation and destruction.

16993. Adulteration of dressed turkeys. U. S. v. 280 Pounds * * *. (F. D. C. No. 29875. Sample No. 73147–K.)

LIBEL FILED: November 21, 1950, Southern District of New York.

ALLEGED SHIPMENT: On or about October 20, 1950, by Rockingham Produce Co., Inc., New Market, Va.

PRODUCT: 280 pounds of dressed turkeys at Bronx, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal, or of an animal which had died otherwise than by slaughter.

DISPOSITION: December 4, 1950. Default decree of condemnation and destruction.

SPICES, FLAVORS, AND SEASONING MATERIALS*

16994. Misbranding of imitation black pepper. U. S. v. 1 200-Pound Drum, etc. (F. D. C. No. 29968. Sample Nos. 70751–K, 70752–K.)

LIBEL FILED: On or about November 18, 1950, District of Kansas.

ALLEGED SHIPMENT: On or about August 30, 1950, from Kansas City, Mo.

PRODUCT: Imitation black pepper. 1 200-pound drum containing 50 pounds, and 6 unlabeled ½-pound packages and 4 unlabeled 1-pound packages repacked from the above drum, at Kansas City, Kans., in possession of the Katy Fruit Market.

RESULTS OF INVESTIGATION: The unlabeled ½-pound packages and 1-pound packages of imitation black pepper had been repacked from the drum and were displayed on the counter, together with a placard reading "Ground Black Pepper 98¢ Full Pound."

LABEL, IN PART: (Drum) "Taste Rite Imitation Ground Pepper (Black) Contains Buckwheat Cereal Base, Spices and Red Pepper, Black Pepper, Shells, Charlock."

NATURE OF CHARGE: Misbranding, Section 403 (b), the product was offered for sale under the name of another food, i. e., pure black pepper. The product was misbranded while held for sale after shipment in interstate commerce.

DISPOSITION: January 18, 1951. Default decree of condemnation and destruction.

16995. Adulteration of anise seed. U. S. v. 105 Bags * * *. (F. D. C. No. 29809. Sample No. 73038–K.)

LIBEL FILED: October 19, 1950, Southern District of New York.

ALLEGED SHIPMENT: On or about July 22, 1949, from Mexico.

PRODUCT: 105 110-pound bags of anise seed at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects.

*See also No. 16976.

The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: November 16, 1950. The Meer Corp., New York, N. Y., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law by fumigating, cutting, and sifting, to eliminate and destroy the objectionable portion, under the supervision of the Food and Drug Administration. The reconditioning operations resulted in the salvage and release of 10,320 pounds of the product and in the denaturing of 188 pounds.

16996. Adulteration of poppy and sesame seeds. U. S. v. 8 Bags, etc. (F. D. C. No. 29961. Sample Nos. 85514–K, 85515–K.)

LIBEL FILED: October 27, 1950, District of Minnesota.

ALLEGED SHIPMENT: On or about October 10, 1949, and August 1, 1950, from New York, N. Y.

PRODUCT: 8 bags, each containing 110 pounds, of poppy seeds, and 3 bags, each containing 190 pounds, of sesame seeds at Minneapolis, Minn.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of insects. The products were adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: December 28, 1950. Default decree of condemnation. The court ordered that the products be destroyed unless disposed of as animal feed, under the supervision of the Food and Drug Administration.

16997. Adulteration of sweet mustard pickle spread. U. S. v. 76 Cases, etc. (F. D. C. No. 29946. Sample No. 70753–K.)

LIBEL FILED: On or about November 2, 1950, District of Kansas.

ALLEGED SHIPMENT: On or about June 16, 1948, from Kansas City, Mo.

PRODUCT: Sweet mustard pickle spread. 76 cases, each containing 24 8-ounce jars, and 3 cases, each containing 24 12-ounce jars, at Kansas City, Kans. Examination showed that the jar caps were corroded and that the product had an abnormal color and a disagreeable metallic taste.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product was unfit for food by reason of its abnormal color and disagreeable metallic taste. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: January 17, 1951. Default decree of condemnation and destruction.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE

16998. Adulteration and misbranding of vitamin tablets. U. S. v. 64 Boxes, etc. (F. D. C. No. 29918. Sample Nos. 90001–K, 90002–K.)

LIBEL FILED: On or about October 10, 1950, Western District of Missouri.

ALLEGED SHIPMENT: On or about June 23 and August 2, 1950, from Burbank, Calif.

PRODUCT: 168 boxes of vitamin tablets at Kansas City, Mo. 64 boxes were labeled "No. 1," and 104 boxes were labeled "No. 2." Each box contained 2 186-tablet bottles of the products, which contained less than the labeled amounts of vitamin C.

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, vitamin C, had been in whole or in part omitted or abstracted from the products.

Misbranding, Section 403 (a), the label statements ("No. 1") "12 Tablets Daily – Provides – Vitamin C 150 Mg. – 5 Times MDR – " and ("No. 2") "12 Tablets Daily – Provides – Vitamin C 100 Mg. – 3⅓ Times MDR – " were false and misleading as applied to products containing less than these amounts of vitamin C.

The products were examined while they were held for sale after shipment in interstate commerce and were found to be deficient in vitamin C.

DISPOSITION: January 11, 1951. Default decree of condemnation and destruction.

16999. **Misbranding of vitamin tablets. U. S. v. 197 Bottles * * *.** (F. D. C. No. 29736. Sample No. 13745–K.)

LIBEL FILED: September 18, 1950, Middle District of Pennsylvania.

ALLEGED SHIPMENT: On or about July 18, 1950, from Buffalo, N. Y.

PRODUCT: 197 bottles, each containing approximately 80 tablets, of vitamins A & D with dicalcium phosphate at Chambersburg, Pa., in possession of H. Weber & Co.

RESULTS OF INVESTIGATION: This product was shipped in 5,000-tablet bottles. It was repackaged and labeled by the consignee, H. Weber & Co., Chambersburg, Pa.

LABEL, IN PART: (Bottle) "Vitamin A & D With Dicalcium Phosphate Vitamin A 3140 U.S.P. Units Viosterol 314 U.S.P. Units Dicalcium Phosphate 1 gr. One Tablet Taken Daily contains approximately the minimum daily requirement of Vitamin A & D. The equivalent of one teaspoonful Cod Liver Oil U.S.P. strength. Builds resistance to colds and disease Distributed by H. Weber & Co., Chambersburg, Pa."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label statements "One Tablet Taken Daily contains approximately the minimum daily requirement of Vitamin A & D" and "Viosterol 314 U. S. P. Units * * * The equivalent of one teaspoonful Cod Liver Oil U. S. P. strength" were false and misleading since there is no U. S. P. unit for viosterol, and 1 tablet of the product was not the equivalent of one teaspoonful of cod liver oil U. S. P. strength and contained only approximately three-fourths of the minimum daily requirement for vitamins A & D; Section 403 (e) (2), the label failed to bear a statement of the quantity of the contents; and, Section 403 (j), the product was represented as a food for special dietary uses by reason of its vitamin and mineral content with respect to vitamins A & D, and its label failed to bear, as required by the regulations, a statement of the proportion of the minimum daily requirement for vitamins A & D which would be supplied by the product.

The product was misbranded while held for sale after shipment in interstate commerce. The product was charged also to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 3335.

DISPOSITION: November 24, 1950. Default decree of condemnation and destruction.

17000. Adulteration and misbranding of mineral tablets with vitamin D. U. S. v. 330 Dozen Bottles, etc. (F. D. C. No. 29683. Sample No. 63959–K.)

LIBEL FILED: August 10, 1950, Northern District of Georgia.

ALLEGED SHIPMENT: On or about January 25, 1950, from Sacramento, Calif.

PRODUCT: Mineral tablets. 330 dozen bottles, each containing 100 tablets, and 115 dozen bottles, each containing 300 tablets, at Atlanta, Ga. When the product was examined, it was found to contain a smaller amount of vitamin D than declared on the label.

LABEL, IN PART: (Bottle) "3 * * * Tablets Contain: * * * Vitamin D 1000 U. S. P. Units."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, vitamin D, had been in part omitted.

Misbranding, Section 403 (a), the label statements "3 White * * * Tablets Contain: * * * Vitamin D 1000 U. S. P. Units * * * 3 Tablets Daily supply the following percentages of the established minimum daily needs for individuals 12 years of age and over. * * * Vitamin D 250%" were false and misleading.

The product was adulterated and misbranded while held for sale after shipment in interstate commerce.

DISPOSITION: September 12, 1950. Default decree of condemnation and destruction.

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FEDERAL SECURITY AGENCY

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

17001–17050

FOODS

The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Federal Security Agency, and include, where indicated, the results of investigations of the Agency, prior to the institution of the proceedings. Published by direction of the Federal Security Administrator.

PAUL B. DUNBAR, *Commissioner of Food and Drugs.*

WASHINGTON, D. C., *May 18, 1951.*

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CEREALS AND CEREAL PRODUCTS

FLOUR

17001. Adulteration of flour. U. S. v. 15 Bags * * *. (F. D. C. No. 30291. Sample No. 81758–K.)

LIBEL FILED: November 22, 1950, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about September 12, 1950, from Toronto, Canada.

PRODUCT: 15 100-pound bags of flour at Philadelphia, Pa., in the possession of R. Fretz.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: January 25, 1951. Default decree of condemnation and destruction.

17002. Adulteration of doughnut flour. U. S. v. 59 Bags * * *. (F. D. C. No. 30170. Sample No. 35712–K.)

LIBEL FILED: November 28, 1950, Northern District of California.

ALLEGED SHIPMENT: On or about August 7, 1950, from Salt Lake City, Utah.

PRODUCT: 59 100-pound bags of doughnut flour at San Francisco, Calif., in the possession of Stiefvater's.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: January 17, 1951. Default decree of condemnation and destruction.

17003. Adulteration and misbranding of graham flour. U. S. v. 100 Bags * * *. (F. D. C. 29969. Sample No. 85259–K.)

LIBEL FILED: October 30, 1950, Southern District of Iowa.

ALLEGED SHIPMENT: On or about September 28, 1950, by the Blair Milling Co., from Atchison, Kans.

PRODUCT: 100 100-pound bags of graham flour at Davenport, Iowa.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent urine.

Misbranding, Section 403 (e) (1), the article failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor.

DISPOSITION: December 18, 1950. The Blair Milling Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency. 42 bags of the product were found unfit and were denatured for use as animal feed.

MACARONI AND NOODLE PRODUCTS

17004. Adulteration of noodles. U. S. v. 29 Unlabeled Cartons * * *. (F. D. C. No. 30203. Sample No. 77666–K.)

LIBEL FILED: December 11, 1950, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about November 10, 1950, by the Dong Kee Co., from Chicago, Ill.

PRODUCT: 29 unlabeled cartons, each containing 10 pounds, of noodles at St. Louis, Mo.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent and cat hairs; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: January 4, 1951. Default decree of condemnation and destruction.

17005. Adulteration of fried noodles. U. S. v. 135 Pounds * * *. (F. D. C. No. 30202. Sample Nos. 95202–K, 95203–K.)

LIBEL FILED: December 12, 1950, District of Colorado.

ALLEGED SHIPMENT: On or about November 20 and 27, 1950, by the Dong Kee Co., from Chicago, Ill.

PRODUCT: 135 pounds of fried noodles, in 12 unlabeled cartons, at Denver, Colo.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent and cat hairs; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: February 13, 1951. Default decree of condemnation and destruction.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS

17006. Adulteration of canned hominy. U. S. v. 27 Cases * * *. (F. D. C. No. 30201. Sample No. 74992–K.)

LIBEL FILED: January 2, 1951, District of Colorado.

ALLEGED SHIPMENT: On or about October 11, 1950, by the Stilwell Canning Co., from Stilwell, Okla.

PRODUCT: 27 cases, each containing 24 1-pound, 13-ounce cans, of hominy at Denver, Colo. Examination showed that the product contained excessive water, the packing medium. The average drained weight was 13.67 ounces.

LABEL, IN PART: (Can) "Banjo White Hominy."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), water had been substituted in part for hominy.

DISPOSITION: February 15, 1951. The Stilwell Canning Co., shipper, having executed an acceptance of service and authorization for taking of final decree, judgment of condemnation was entered and the court ordered that the product be delivered to charitable institutions.

17007. Adulteration of brewers flakes and brewers malt. U. S. v. 257 Bags, etc. (F. D. C. No. 29974. Sample Nos. 92775–K, 92776–K.)

LIBEL FILED: November 2, 1950, Middle District of Tennessee.

ALLEGED SHIPMENT: On or about July 12 and August 14, 1950, from Mount Vernon, Ind., and Chicago, Ill.

PRODUCT: 257 100-pound bags of brewers flakes and 747 bushels of brewers malt at Nashville, Tenn.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of insects, insect parts, and rodent excreta. The products were adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: January 3, 1951. William Gerst Brewing Co., Inc., Nashville, Tenn, having appeared as claimant, a consent decree of condemnation was entered and the court ordered that the product be released under bond for conversion into animal feed.

17008. Adulteration of dextrine malt. U. S. v. 8 Bags * * *. (F. D. C. No. 30148. Sample No. 83184–K.)

LIBEL FILED: November 17, 1950, Eastern District of Michigan.

ALLEGED SHIPMENT: On or about October 13, 1950, from Milwaukee, Wis.

PRODUCT: 8 120-pound bags of dextrine malt at Detroit, Mich.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: January 18, 1951. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution, for use as animal feed.

17009. Adulteration of bulk wheat. U. S. v. 109,610 Pounds * * *. (F. D. C. No. 30196. Sample No. 85278–K.)

LIBEL FILED: December 8, 1950, Western District of Wisconsin.

ALLEGED SHIPMENT: On or about November 17, 1950, by Occident Elevator, from Poplar, Mont.

PRODUCT: 109,610 pounds of bulk wheat at Superior, Wis.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product was unfit for food by reason of the presence of musty wheat.

DISPOSITION: December 18, 1950. The Russell Miller Milling Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for disposition in compliance with the law, under the supervision of the Food and Drug Administration. The unfit portion, weighing 28,210 pounds, was separated from the good portion and was mixed with charcoal, to be used for cattle and dairy feeds.

17010. Adulteration of rye meal. U. S. v. 8 Bags * * *. (F. D. C. No. 30170. Sample No. 35713–K.)

LIBEL FILED: November 28, 1950, Northern District of California.

ALLEGED SHIPMENT: On or about June 24, 1950, from Janesville, Wis.

PRODUCT: 8 100-pound bags of rye meal at San Francisco, Calif.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects.

The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: January 17, 1951. Default decree of condemnation and destruction.

DAIRY PRODUCTS

BUTTER

The following cases report actions involving butter that consisted in whole or in part of filthy or decomposed substances, **Nos. 17011 to 17014**, and that was below the standard for milk fat content, **Nos. 17015 to 17019.**

17011. Adulteration of butter. U. S. v. 137 Cases * * *. (F. D. C. No. 30267. Sample No. 54657–K.)

LIBEL FILED: September 19, 1950, Northern District of Texas.

ALLEGED SHIPMENT: On or about August 23, 1950, by Harp Foods Mfg. Co., Inc., from Shawnee, Okla.

PRODUCT: 137 cases, each containing 32 1-pound prints, of butter at Wichita Falls, Tex.

LABEL, IN PART: "Harp's Oklahoma Brand Creamery Butter."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance and was unfit for human consumption. (Examination disclosed that the butter was made from cream that was in whole or in part decomposed.)

DISPOSITION: November 20, 1950. Harp Foods Mfg. Co., Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for conversion into butter oil, under the supervision of the Federal Security Agency.

17012. Adulteration of butter. U. S. v. 48 Cases * * *. (F. D. C. No. 30272. Sample No. 84786–K.)

LIBEL FILED: October 26, 1950, Southern District of Ohio.

ALLEGED SHIPMENT: On or about October 18, 1950, by the Merchants Creamery Co., from Springfield, Mo.

PRODUCT: 48 cases, each containing approximately 63 pounds, of butter at Cincinnati, Ohio.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a decomposed substance since it was made from decomposed cream, as evidenced by a high mold mycelia count.

DISPOSITION: December 12, 1950. The Merchants Creamery Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond to be converted into refined butter oil, under the supervision of the Food and Drug Administration.

17013. Adulteration of butter. U. S. v. 11 Cases, etc. (F. D. C. No. 30443. Sample No. 54647–K.)

LIBEL FILED. September 5, 1950, Western District of Louisiana.

ALLEGED SHIPMENT. On or about August 7, 1950, by the A. T. Crouch Creamery Co., from Bloomer, Ark.

PRODUCT. Butter. 11 cases, each containing 32 1-pound cartons, and 16 cases, each containing 16 1-pound cartons, at Monroe, La.

LABEL, IN PART: "Armour Clóverbloom Butter * * * Armour Creameries Distributors General Office Chicago, Ill."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy and decomposed substance; and, Section 402 (a) (4), it was prepared and packed under insanitary conditions which may have contaminated the article.

DISPOSITION: November 6, 1950. Default decree of condemnation. The court ordered that the product be destroyed or otherwise disposed of by the marshal, as provided by law.

17014. Adulteration of butter. U. S. v. 9 Cases, etc. (F. D. C. No. 30232. Sample Nos. 81746–K, 81747–K.)

LIBEL FILED: November 8, 1950, District of New Jersey.

ALLEGED SHIPMENT: On or about October 10, 1950, by the Armour Creameries, from Winfield, Kans.

PRODUCT: Butter. 9 cases, each containing 52 cartons, and 16 cases, each containing 32 cartons, at Trenton, N. J.

LABEL, IN PART: (Carton) "One Pound Net Weight Spring Brook * * * Butter."

NATURE OF CHARGE:—Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance since it was made from decomposed cream and contained decomposed material.

DISPOSITION: January 4, 1951. Armour & Co., Chicago, Ill., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for conversion into butter oil, under the supervision of the Food and Drug Administration.

17015. Adulteration of butter. U. S. v. 179 Boxes * * * (and 1 other seizure action; 23,040 pounds, total). (F. D. C. Nos. 30269, 30273. Sample Nos. 65549–K, 65552–K, 85421–K, 85422–K.)

LIBELS FILED: October 5 and 20, 1950, District of Minnesota and Eastern District of Wisconsin.

ALLEGED SHIPMENT: On or about August 16 and 22, 1950, by the Gateway Farmers Creamery, from Eureka, S. Dak., and Linton, N. Dak.

PRODUCT: Butter 179 boxes, each containing 64 pounds, at Milwaukee, Wis., and 181 cartons, each containing 64 pounds, at Minneapolis, Minn.

LABEL, IN PART: (Portion) "Beaver Valley Brand * * * Beaver Valley Creameries, Inc. Wishek, North Dakota"; (remainder) "Butter * * * The Eureka Creamery Eureka, S. D."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: December 20, 1950, and January 5, 1951. The Gateway Farmers Creamery, La Crosse, Wis., and the Eureka Creamery, claimants for the respective lots, having consented to the entry of decrees, judgments of condemnation were entered and the court ordered that the product be released under bond, conditioned that it be reworked under the supervision of the Federal Security Agency.

17016. Adulteration of butter. U. S. v. 135 Boxes (4,320 pounds) * * *. (F. D. C. No. 30445. Sample No. 80218–K.)

LIBEL FILED: November 7, 1950, District of Massachusetts.

ALLEGED SHIPMENT: On or about October 25, 1950, by the Sugar Creek Creamery Co., Harding Cream Div., from Omaha, Nebr.

PRODUCT: 135 boxes, each containing 32 1-pound prints, of butter at Somerville, Mass.

LABEL, IN PART: "Diamond Brand Roll Butter * * * Distributed By National Creamery Co. Somerville, Mass.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: December 12, 1950. The Sugar Creek Creamery Co., Harding Cream Div., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reworking, under the supervision of the Federal Security Agency.

17017. Adulteration of butter. U. S. v. 18 Cases, etc. (F. D. C. No. 29817. Sample Nos. 41997–K, 42000–K.)

LIBEL FILED: September 20, 1950, Northern District of Illinois.

ALLEGED SHIPMENT: On or about August 23, 1950, by the Emma Creamery Co., Emma, Mo.

PRODUCT: 52 cases, each containing 32 pounds, of butter at Chicago, Ill.

LABEL, IN PART: (Parchment wrapper) "Armour Cloverbloom Butter One Pound Net Weight."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: November 9, 1950. Armour & Co., Chicago, Ill., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond, conditioned that it be brought into compliance with the law under the supervision of the Food and Drug Administration.

17018. Adulteration of butter. U. S. v. 4½ Cases * * *. (F. D. C. No. 29828. Sample No. 82235–K.)

LIBEL FILED: August 28, 1950, Southern District of West Virginia.

ALLEGED SHIPMENT: On or about July 27, 1950, by Pickerington Creamery, Inc., from Pickerington, Ohio.

PRODUCT: 4½ cases, each full case containing 32 pounds, of butter at Charleston, W. Va.

LABEL, IN PART: "One Pound Net Mayflower Brand * * * Creamery Butter Pickerington Creamery, Inc."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: November 13, 1950. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution.

17019. Adulteration of butter. U. S. v. 2 Cases * * *. (F. D. C. No. 30271. Sample No. 84559–K.)

LIBEL FILED: October 5, 1950, Northern District of Indiana.

ALLEGED SHIPMENT: On or about September 6, 1950, by the Watseka Dairy Products, from Watseka, Ill.

PRODUCT: 2 cases, each containing 28 1-pound cartons, of butter at Remington, Ind.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: December 19, 1950. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution.

CHEESE

17020. Adulteration of Cheddar cheese. U. S. v. 32 Cheddars * * *. (F. D. C. No. 29970. Sample No. 77566–K.)

LIBEL FILED: October 31, 1950, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about September 20, 1950, from Curwensville, Pa. This was a return shipment.

PRODUCT: 32 Cheddars containing a total of 2,254 pounds of Cheddar cheese at Perryville, Mo.

LABEL, IN PART: "Missouri Cheddar Cheese Made From Pasteurized Milk."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance since it was made from filthy milk and contained manure and insect parts; and, Section 402 (a) (4), the article had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: November 30, 1950. Default decree of condemnation and destruction.

FISH AND SHELLFISH

17021. Adulteration of frozen salmon. U. S. v. 572 Pounds * * *. (F. D. C. No. 29854. Sample No. 74015–K.)

LIBEL FILED: October 31, 1950, Southern District of New York.

ALLEGED SHIPMENT: On or about September 27, 1950, by the San Juan Fishing & Packing Co., from Seattle, Wash.

PRODUCT: 572 pounds of frozen salmon at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish.

DISPOSITION: February 8, 1951. Default decree of condemnation and destruction.

17022. Adulteration of whitefish. U. S. v. 230 Pounds * * *. (F. D. C. No. 30120. Sample No. 59961–K.)

LIBEL FILED: November 7, 1950, Eastern District of Wisconsin.

ALLEGED SHIPMENT: On or about November 1, 1950, by Hammer & Berglund, from Duluth, Minn.

PRODUCT: 230 pounds of whitefish, in boxes, at Milwaukee, Wis.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of parasitic worms.

DISPOSITION: November 29, 1950. Default decree of condemnation and destruction.

17023. Adulteration of frozen whiting. U. S. v. 489 Cases * * *. (F. D. C. No. 30136. Sample No. 55068–K.)

LIBEL FILED: November 14, 1950, Northern District of Alabama.

ALLEGED SHIPMENT: On or about July 22, 1950, by Stamm Schulman, from Provincetown, Mass.

PRODUCT: 489 cases, each containing 5 10-pound cartons, of frozen whiting at Birmingham, Ala.

LABEL, IN PART: "Pilgrim Brand Fresh Frozen H & G Whiting Packed By Seafood Packers, Inc. Provincetown, Mass."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed fish.

DISPOSITION: December 27, 1950. Default decree of condemnation and destruction.

17024. Adulteration of frozen whiting. U. S. v. 64 Boxes * * *. (F. D. C. No. 29928. Sample No. 70402–K.)

LIBEL FILED: October 12, 1950, District of Kansas.

ALLEGED SHIPMENT: On or about August 1, 1950, by Fast Frozen Foods, from Chicago, Ill.

PRODUCT: 64 boxes, each containing 5 10-pound cartons, of frozen whiting at Dodge City, Kans.

LABEL, IN PART: "Pilgrim Brand Fresh Frozen H & G Whiting Packed By Seafood Packers, Inc., Provincetown, Mass."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a putrid substance.

DISPOSITION: January 3, 1951. Default decree of condemnation and destruction.

17025. Adulteration and misbranding of fibered codfish. U. S. v. 46 Cartons * * *. (F. D. C. No. 29857. Sample No. 91887–K.)

LIBEL FILED: November 1, 1950, Eastern District of New York.

ALLEGED SHIPMENT: On or about October 11, 1950, by J. W. Beardsley's Sons, from Newark, N. J.

PRODUCT: 46 5-pound cartons of fibered codfish at Woodside, N. Y.

LABEL, IN PART: (Carton) "Matchless Fibered Codfish in Bulk."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing pieces of bone had been substituted in whole or in part for fibered codfish, which is expected to be free from bones.

Misbranding, Section 403 (a), the name "Fibered Codfish" was false and misleading as applied to a product in which a substantial amount of the bones remain.

DISPOSITION: December 18, 1950. Default decree of condemnation and destruction.

17026. Adulteration of fish roe. U. S. v. 810 Pounds, etc. (F. D. C. No. 30292. Sample Nos. 91989–K, 91991–K, 91992–K.)

LIBEL FILED: November 24, 1950, Southern District of New York.

ALLEGED SHIPMENT: On or about October 31 and November 4, 1950, by Ed Allie, from Sturgeon Bay, Wis.

PRODUCT: 810 pounds of colored fish roe, in 8 kegs, and 1,168 pounds of uncolored fish roe, in 20 kegs, at New York, N. Y.

LABEL, IN PART: (Portion) "Hand Packed Chub Roe."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of worms.

DISPOSITION: December 1, 1950. Default decree of condemnation and destruction.

17027. Adulteration of fish roe. U. S. v. 420 Pounds * * *. (F. D. C. No. 30289. Sample No. 91990–K.)

LIBEL FILED: November 24, 1950, Southern District of New York.

ALLEGED SHIPMENT: On or about October 20, 1950, by John LeClair, from Two Rivers, Wis.

PRODUCT: 420 pounds of fish roe, in two unlabeled kegs at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of worms.

DISPOSITION: December 1, 1950. Default decree of condemnation and destruction.

17028. Adulteration and misbranding of canned herring roe. U. S. v. 52 Cases * * *. (F. D. C. No. 29861. Sample No. 66848–K.)

LIBEL FILED: October 31, 1950, District of Maryland.

ALLEGED SHIPMENT: On or about August 22, 1950, by Cape King Fisheries, Inc., from New Bedford, Mass.

PRODUCT: 52 cases, each containing 24 15-ounce cans, of herring roe at Baltimore, Md.

LABEL, IN PART: (Can) "Cape King Herring Roe."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, herring roe, had been in whole or in part omitted; and, Section 402 (b) (2), whiting roe had been substituted in whole or in part for herring roe.

Misbranding, Section 403 (a), the label statement "Herring Roe" was false and misleading as applied to an article consisting of whiting roe.

DISPOSITION: December 1, 1950. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution.

17029. Adulteration and misbranding of canned herring roe. U. S. v. 21 Cases * * *. (F. D. C. No. 29954. Sample No. 66849–K.)

LIBEL FILED: On or about November 2, 1950, Western District of Virginia.

ALLEGED SHIPMENT: September 14, 1950, by Cape King Fisheries, Inc., from Baltimore, Md.

PRODUCT: 21 cases, each containing 24 15-ounce cans, of herring roe at Winchester, Va.

LABEL, IN PART: "Cape King Herring Roe * * * Cape King Fisheries Inc. New Bedford, Mass."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, herring roe, had been in whole or in part omitted; and, Section 402 (b) (2), whiting roe had been substituted in whole or in part for herring roe.

Misbranding, Section 403 (a), the label statement "Herring Roe" was false and misleading as applied to an article consisting of whiting roe.

DISPOSITION: December 30, 1950. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution.

17030. Adulteration of oysters. U. S. v. 3 Barrels * * *. (F. D. C. No. 30221. Sample No. 40509–K.)

LIBEL FILED: December 18, 1950, Northern District of Ohio.

ALLEGED SHIPMENT: On or about December 14, 1950, by the Bivalve Oyster Packing Co., from Bivalve, Md.

PRODUCT: 3 barrels, each containing 120 pints, of oysters at Cleveland, Ohio.

LABEL, IN PART: "Oysters Standards."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), water had been substituted in whole or in part for oysters; and, Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

DISPOSITION: January 24, 1951. Default decree of condemnation and destruction.

17031. Adulteration of oysters. U. S. v. 1 Barrel * * *. (F. D. C. No. 30217. Sample No. 67553–K.)

LIBEL FILED: December 15, 1950, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about December 13, 1950, by Z. Ward & Son, from Crisfield, Md.

PRODUCT: 1 barrel, containing 144 pint cans, of oysters at Greensburg, Pa.

LABEL, IN PART: "Delicious Salt Water Oysters Md 217 Oysters Standards."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), water had been substituted in whole or in part for oysters; and, Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

DISPOSITION: January 9, 1951. Default decree of condemnation and destruction.

17032. Adulteration of oysters. U. S. v. 1 Barrel * * *. (F. D. C. No. 30216. Sample No. 66866–K.)

LIBEL FILED: December 15, 1950, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about December 13, 1950, by W. E. Riggin & Co., from Crisfield, Md.

PRODUCT: 1 barrel, containing 72 pint cans, of oysters at Butler, Pa.

LABEL, IN PART: "Rig-Co Brand Oysters Standards."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), water had been substituted in whole or in part for oysters; and, Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

DISPOSITION: January 9, 1951. Default decree of condemnation and destruction.

17033. Adulteration of oysters. U. S. v. 344 Cans * * *. (F. D. C. No. 30225. Sample No. 66984–K.)

LIBEL FILED: December 20, 1950, Southern District of Ohio.

ALLEGED SHIPMENT: On or about December 16, 1950, by H. Allen Smith, Cheriton, Va.

PRODUCT: 344 pint cans of oysters at Mount Vernon, Ohio.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

DISPOSITION: February 19, 1951. Default decree of destruction.

17034. Misbranding of oysters. U. S. v. 2 Barrels * * *. (F. D. C. No. 30213. Sample No. 67554–K.)

LIBEL FILED: December 15, 1950, Southern District of Illinois.

ALLEGED SHIPMENT: On or about December 12, 1950, by the Milbourne Oyster Co., from Crisfield, Md.

PRODUCT: 2 barrels, each containing 160 pint cans, of oysters at Springfield, Ill.

LABEL, IN PART: "Oysters Standards 338 Contents 1 Pint Milbourne Delicious Salt Water Raw Oysters Md 203."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the containers failed to bear a label containing an accurate statement of the quantity of the contents. (The cans contained less than 1 pint, the declared volume.)

DISPOSITION: December 21, 1950. The Milbourne Oyster Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for repackaging and relabeling, under the supervision of the Food and Drug Administration.

The 303 pints of oysters which were seized were repacked in properly filled gallon cans and produced the equivalent of 286 pints.

17035. Adulteration of frozen shrimp. U. S. v. 14 Cases * * *. (F. D. C. No. 29973. Sample Nos. 75059–K, 75060–K.)

LIBEL FILED: November 1, 1950, District of Colorado.

ALLEGED SHIPMENT: On or about October 23, 1950, by Shapiro Fisheries, Inc., from Port Lavaca, Tex.

PRODUCT: 14 cases, each containing 10 5-pound cartons, of frozen shrimp at Denver, Colo.

LABEL, IN PART: "Shap Brand Shrimp Frozen Fresh."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed shrimp.

DISPOSITION: December 5, 1950. Default decree of condemnation and destruction. On December 8, 1950, an amended decree was entered providing for the sale of the product for use as animal feed, the product to be prepared for such use under the supervision of the Food and Drug Administration.

17036. Adulteration of frozen shrimp. U. S. v. 10 Cases * * *. (F. D. C. No. 29955. Sample No. 70623–K.)

LIBEL FILED: October 27, 1950, Eastern District of Oklahoma.

ALLEGED SHIPMENT: On or about September 26, 1950, by the J. R. Clegg Shrimp Co., from Port Lavaca, Tex.

PRODUCT: 10 cases, each containing 10 5-pound cartons, of frozen shrimp at Muskogee, Okla.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed shrimp.

DISPOSITION: February 1, 1951. Default decree of condemnation and destruction.

FRUITS AND VEGETABLES

CANNED FRUIT

17037. Misbranding of canned apricots. U. S. v. 349 Cases * * *. (F. D. C. No. 30315. Sample No. 35782–K.)

LIBEL FILED: December 1, 1950, District of New Jersey.

ALLEGED SHIPMENT: On or about November 2, 1950, by Reid Murdoch, from San Francisco, Calif.

PRODUCT: 349 cases, each containing 24 1-pound, 13-ounce cans, of apricots at Bayonne, N. J.

LABEL, IN PART: (Can) "Yacht Club * * * Unpeeled Halves Apricots Packed In Heavy Syrup."

NATURE OF CHARGE: Misbranding, Section 403 (g) (2), the product purported to be and was represented as canned apricots, a food for which a definition and standard of identity has been prescribed by regulations; and its label failed to bear, as required by the regulations, the name of the optional packing medium present since the label bore the statement "Packed In Heavy Syrup," whereas the product was packed in light sirup.

DISPOSITION: January 25, 1951. The Sun Garden Packing Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled, under the supervision of the Food and Drug Administration.

17038. Adulteration of canned boysenberries. U. S. v. 48 Cases * * *. (F. D. C. No. 30151. Sample No. 70511–K.)

LIBEL FILED: November 21, 1950, District of Kansas.

ALLEGED SHIPMENT: On or about January 17, 1950, from Salem, Oreg.

PRODUCT: 48 cases, each containing 24 1-pound, 4-ounce cans, of boysenberries at Coffeyville, Kans.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance. (Examination showed that the article was undergoing chemical decomposition.) The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: January 22, 1951. Default decree of condemnation and destruction.

17039. Misbranding of canned cherries. U. S. v. 74 Cases * * *. (F. D. C. No. 30312. Sample No. 67783–K.)

LIBEL FILED: December 1, 1950, District of Idaho.

ALLEGED SHIPMENT: On or about August 4 and September 4, 1950, by Varney Canning, Inc., Roy, Utah.

PRODUCT: 74 cases, each containing 6 6-pound, 12-ounce cans, of cherries at Twin Falls, Idaho.

LABEL, IN PART: "Leota Brand Pitted Red Sour Cherries."

NATURE OF CHARGE: Misbranding, Section 403 (g) (1), the product purported to be and was represented as canned cherries, a food for which a definition and standard of identity has been prescribed by regulations; and its label failed to bear, as required by the regulations, the name of the optional packing medium present, namely, water.

Further misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned cherries since it contained an excessive number of pits, and its label failed to bear a statement that it fell below the standard.

DISPOSITION: January 25, 1951. Varney Canning, Inc., claimant, having consented to the entry of a decree, the court ordered that the product be released under bond to be relabeled, under the supervision of the Federal Security Agency.

VEGETABLES

17040. Adulteration of kidney beans. U. S. v. 25 Cases * * *. (F. D. C. No. 29985. Sample No. 92781–K.)

LIBEL FILED: November 6, 1950, Middle District of Tennessee.

ALLEGED SHIPMENT: On or about December 16, 1948, from Chicago, Ill.

PRODUCT: 25 cases, each containing 24 2-pound bags, of kidney beans at Nashville, Tenn.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: December 20, 1950. Default decree of condemnation and destruction. On January 2, 1951, the decree was amended to set aside the order of destruction and to direct the marshal to deliver the product to a charitable institution, for use as animal feed.

17041. Adulteration of canned mustard greens. U. S. v. 75 Cases * * *. (F. D. C. No. 30320. Sample No. 86187–K.)

LIBEL FILED: December 11, 1950, District of Arizona.

ALLEGED SHIPMENT: On or about June 6, 1950, by L. H. Moore Canning Co., from McAllen, Tex.

PRODUCT: 75 cases, each containing 24 1-pound, 2-ounce cans, of mustard greens at Phoenix, Ariz.

LABEL, IN PART: "Moore's Texas Mustard Greens."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of worms.

DISPOSITION: February 9, 1951. Default decree of condemnation and destruction.

TOMATOES AND TOMATO PRODUCTS

17042. Adulteration and misbranding of canned tomatoes. U. S. v. 373 Cases * * *. (F. D. C. No. 30309. Sample No. 70298–K.)

LIBEL FILED: November 29, 1950, District of Kansas.

ALLEGED SHIPMENT: On or about September 14, 1950, by the Rush Canning Co., from Washburn, Mo.

PRODUCT: 373 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Coffeyville, Kans.

LABEL, IN PART: "Can-D-Lite Brand Tomatoes."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of fly eggs and maggots; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned tomatoes since it contained excessive peel.

DISPOSITION: January 22, 1951. Default decree of condemnation and destruction.

17043. Adulteration and misbranding of tomato paste. U. S. v. 68 Cases * * *. (F. D. C. No. 30176. Sample No. 55067–K.)

LIBEL FILED: November 30, 1950, Northern District of Alabama.

ALLEGED SHIPMENT: On or about September 7, 1950, by the H. J. McGrath Co., from Baltimore, Md.

PRODUCT: 68 cases, each containing 100 6-ounce cans, of tomato paste at Birmingham, Ala.

LABEL, IN PART: "Plee-Zing Tomato Paste Naples Style."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for tomato paste since it contained less than 25 percent salt-free tomato solids.

DISPOSITION: February 19, 1951. Default decree of condemnation and destruction.

17044. Adulteration of tomato puree. U. S. v. 100 Cases (and 2 other seizure actions). (F. D. C. Nos. 30255 to 30257, incl. Sample Nos. 91824–K to 91826–K, incl.)

LIBELS FILED: November 16, 1950, Eastern District of New York.

ALLEGED SHIPMENT: On or about September 29 and October 3 and 4, 1950, by Uddo & Taormina Co., from Vineland, N. J.

PRODUCT: Tomato puree. 100 cases at Brooklyn, N. Y., 29 cases, at South Ozone Park, Long Island, N. Y., and 45 cases at Rosebank, Staten Island, N. Y. Each case contained 24 1-pound, 12-ounce cans.

LABEL, IN PART: "Mountain Beauty."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: December 18, 1950. Default decrees of condemnation and destruction.

NUTS

17045. Adulteration and misbranding of mixed nuts. U. S. v. 228 Cases * * *. (F. D. C. Nos. 30279 to 30285, incl. Sample Nos. 43730–K, 43733–K to 43738–K, incl.)

LIBEL FILED: November 21, 1950, Southern District of Ohio.

ALLEGED SHIPMENT: On or about October 11, 1950, by William A. Higgins & Co., Inc., from New York, N. Y.

PRODUCT: 228 cases, each containing 25 1-pound bags, of mixed nuts at Cincinnati, Ohio.

LABEL, IN PART: (Bag) "Mixed Nuts Mistletoe Walnuts, Brazils, Filberts, Almonds, Pecans."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, pecans, had been in whole or in part omitted from the article.

Misbranding, Section 403 (a), the label designation "Pecans" was false and misleading as applied to an article which contained no pecans or an insignificant amount of pecans.

DISPOSITION: December 12, 1950. William A. Higgins & Co., Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling, under the supervision of the Federal Security Agency, and that all references to pecans be omitted from the labels.

17046. Adulteration of brazil nuts. U. S. v. 20 Bags * * *. (F. D. C. No. 30194. Sample No. 91508–K.)

LIBEL FILED: November 9, 1950, District of Minnesota.

ALLEGED SHIPMENT: On or about September 5 and 14, 1950, by William A. Higgins & Co., Inc., from New York, N. Y.

PRODUCT: 20 100-pound bags of brazil nuts at Duluth, Minn.

LABEL, IN PART: "Large Washed Brazil Nuts Product of Brazil."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of moldy brazil nuts, and was otherwise unfit for food by reason of the presence of rancid brazil nuts.

DISPOSITION: January 26, 1951. Default decree of condemnation. The court ordered that in lieu of destruction, the product be denatured and used for animal feed, under the supervision of the Food and Drug Administration.

17047. Adulteration of shelled peanuts. U. S. v. 200 Bags * * *. (F. D. C. No. 29979. Sample No. 92782–K.)

LIBEL FILED: November 2, 1950, Middle District of Tennessee.

ALLEGED SHIPMENT: On or about July 24, 1950, from Donalsonville, Ga.

PRODUCT: 200 124-pound bags of shelled peanuts at Nashville, Tenn., in possession of Noel & Co.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy and decomposed substance by reason of the presence of rodent excreta and moldy nuts; and, Section 402 (a) (4), the product had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: December 20, 1950. The Standard Candy Co., Nashville, Tenn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the purpose of segregating the fit from the unfit portion and converting the latter into animal feed, under the supervision of the Food and Drug Administration. 167 bags of peanuts were found to be satisfactory and were released. From the remaining 33 bags of peanuts, 3,954 pounds were released as good and 138 pounds were denatured for use as animal feed.

MISCELLANEOUS FOODS

17048. Adulteration of Whetlerite (activated charcoal). U. S. v. Michlin Surplus Co. and Arnold S. Michlin. Pleas of guilty. Fine of $100 and costs on each of counts 1 and 2 against each defendant; fine and costs suspended on count 2. (F. D. C. No. 29447. Sample Nos. 42345–K to 42347–K, incl., 46663–K.)

INFORMATION FILED: September 14, 1950, Northern District of Ohio, against the Michlin Surplus Co., a partnership, trading as the Michlin Chemical Co. at Detroit, Mich., and Wagon Works, Ohio, and against Arnold S. Michlin, a partner in the partnership.

ALLEGED SHIPMENT: On or about May 28 and June 2, 1948, from the State of Ohio into the States of Michigan and Pennsylvania.

RESULTS OF INVESTIGATION: The product was surplus war material purchased from the War Assets Administration. It consisted of chemically impregnated activated charcoal and was represented by the defendants as being suitable for chicken and animal feed.

NATURE OF CHARGE: Adulteration, Section 402 (a) (1), the article contained an added poisonous or deleterious substance, namely, copper, which may have rendered the article injurious to health.

DISPOSITION: October 27, 1950. Pleas of guilty having been entered, the court imposed a fine of $100 and costs on each of counts 1 and 2 against each defendant. The fine and costs were suspended on count 2.

17049. Adulteration and misbranding of Chambers' anti-skipper compound. U. S. v. 10 Cases, etc. (F. D. C. No. 30157. Sample No. 67444–K.)

LIBEL FILED: November 24, 1950, Western District of Virginia.

ALLEGED SHIPMENT: On or about October 15, 1945, by the Chambers-Godfrey Mfg. Co., from Martin, Tenn.

PRODUCT: Chambers' anti-skipper compound. 10 cases, each containing 24 15-ounce cans, and 13 cases, each containing 48 7-ounce cans, at Harrisonburg, Va. Examination disclosed that the product consisted essentially of sodium borate (borax) and potassium nitrate.

LABEL, IN PART: "Chambers' Anti-Skipper Compound."

NATURE OF CHARGE: Adulteration, Section 402 (a) (1), the product contained an added poisonous and deleterious substance, namely, borax, which may have rendered the product injurious to health.

Misbranding, Section 403 (a), the label statements "Will Prevent Skippers On Cured Meats If Used As Directed On The Side of This Package * * * Guaranteed To Be Absolutely Harmless" were misleading since they implied that the product may safely be used, whereas such use would be potentially dangerous to the health of the consumer.

DISPOSITION: January 20, 1951. Default decree of condemnation and destruction.

17050. Adulteration of butter neutralizer. U. S. v. 1 Barrel * * *. (F. D. C. No. 29588. Sample No. 85316–K.)

LIBEL FILED: September 18, 1950, District of South Dakota.

ALLEGED SHIPMENT: On or about August 7, 1950, by the Dairy Chemical Co., from Fort Dodge, Iowa.

PRODUCT: 1 barrel of butter neutralizer at De Smet, S. Dak.

LABEL, IN PART: "Neutralene Flake Sesqui-Carbonate 325 Lbs. Net."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta, rodent hairs, and dirt.

DISPOSITION: November 15, 1950. Default decree of condemnation and destruction.

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FEDERAL SECURITY AGENCY

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

17051–17100

FOODS

The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Federal Security Agency, and include, where indicated, the results of investigations of the Agency, prior to the institution of the proceedings. Published by direction of the Federal Security Administrator.

PAUL B. DUNBAR, *Commissioner of Food and Drugs.*

WASHINGTON, D. C., *May 23, 1951.*

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BEVERAGES AND BEVERAGE MATERIALS

17051. Adulteration of grape juice. U. S. v. 252 Cases * * *. (F. D. C. No. 30317. Sample No. 67031–K.)

LIBEL FILED: December 1, 1950, District of Columbia.

ALLEGED SHIPMENT: On or about November 6, 1950, by the Goodman Products Co., from Brooklyn, New York.

PRODUCT: 252 cases, each containing 12 quart bottles, of grape juice at Washington, D. C.

LABEL, IN PART: "Packed By Paradise Packing Co. Brooklyn, N. Y. Paradise Brand * * * Pure Concord Grape Juice."

NATURE OF CHARGE: Adulteration, Section 402(a)(3), the product consisted in whole or in part of a decomposed substance by reason of the presence of mold.

DISPOSITION: January 19, 1951. Default decree of condemnation and destruction.

17052. Adulteration of tomato juice. U. S. v. 123 Cases * * *. (F. D. C. No. 30318. Sample No. 88744–K.)

LIBEL FILED: December 4, 1950, District of Massachusetts.

ALLEGED SHIPMENT: On or about November 15, 1950, by the Comstock Canning Corp., from Egypt, N. Y.

PRODUCT: 123 cases, each containing 12 1-quart, 14-fluid-ounce cans, of tomato juice at Somerville, Mass.

LABEL, IN PART: (Can) "Comstock Tomato Juice."

NATURE OF CHARGE: Adulteration, Section 402(a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: January 22, 1951. Default decree of condemnation and destruction.

17053. Adulteration of tomato juice. U. S. v. 100 Cases * * *. (F. D. C. No. 30189. Sample No. 77680–K.)

LIBEL FILED: December 7, 1950, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about October 2, 1950, by the Omega Canning Co. and the New Palestine Canning Co., from New Palestine, Ind.

PRODUCT: 100 cases, each containing 24 1-pint, 2-ounce cans, of tomato juice at St. Louis, Mo.

LABEL, IN PART: (Can) "Omega Tomato Juice."

NATURE OF CHARGE: Adulteration, Section 402(a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: January 2, 1951. Default decree of condemnation and destruction.

17054. Adulteration of tomato juice. U. S. v. 500 Cases * * *. (F. D. C. No. 29071. Sample No. 3035–K.)

LIBEL FILED: April 19, 1950, Eastern District of Virginia.

ALLEGED SHIPMENT: On or about October 20, 1949, by the Francis C. Stokes Co., from Vincentown, N. J.

PRODUCT: 500 cases, each containing 12 1-quart, 14-ounce cans, of tomato juice at Richmond, Va.

LABEL, IN PART: (Can) "Stokes Salt Added Tomato Juice."

NATURE OF CHARGE: Adulteration, Section 402(a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: January 31, 1951. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution. Of the 2,316 cans of the product which were seized, 348 cans were found to be decomposed and were fed to pigs; the remaining cans were utilized for human food.

CEREALS AND CEREAL PRODUCTS

BAKERY PRODUCTS

17055. Adulteration of bread. U. S. v. Richard Baking Co., Inc., and Louis E. Vigeant. Pleas of guilty. Corporation fined $300; individual defendant placed on probation for 1 year. (F. D. C. No. 29186. Sample Nos. 62580-K, 63321-K, 63323-K.)

INFORMATION FILED: October 3, 1950, District of Massachusetts against Richard Baking Co., Inc., Southbridge, Mass., and Louis E. Vigeant, president of the corporation.

ALLEGED SHIPMENT: On or about January 11 and 12, 1950, from the State of Massachusetts into the State of Connecticut.

LABEL, IN PART: "Enriched Butter-Nut [or "Butter-Nut Raisin Bread"] * * * Richard Baking Co., Inc. Southbridge, Mass."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insect fragments and rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: February 6, 1951. Pleas of guilty having been entered, the court imposed a fine of $300 against the corporation and placed the individual defendant on probation for 1 year.

17056. Misbranding of bread. U. S. v. Mead's Fine Bread Co. Plea of nolo contendere. Fine, $200. (F. D. C. No. 29479. Sample Nos. 49752-K, 49755-K, 49756-K.)

INFORMATION FILED: November 1, 1950, District of New Mexico, against Mead's Fine Bread Co., a corporation, Clovis, N. Mex.

ALLEGED SHIPMENT: On or about April 26, 1950, from the State of New Mexico into the State of Texas.

LABEL, IN PART: "Mead's Fine Thin Sliced Bread 1 lb. 8 ozs. or over" or "Mead's Fine Buttermilk Bread Mead's Bakery * * * Weight 1½ lbs."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents since the loaves weighed less than the labeled weight.

DISPOSITION: December 18, 1950. A plea of nolo contendere having been entered, the court imposed a fine of $200.

17057. Adulteration of cookies. U. S. v. Stella D'oro Biscuit Co., Inc., and Joseph Kresevich. Pleas of guilty. Fine, $1,000. (F. D. C. No. 28217. Sample Nos. 11786–K to 11788–K, incl., 57076–K, 57080–K.)

INFORMATION FILED: January 12, 1951, Southern District of New York, against Stella D'oro Biscuit Co., Inc., New York, N. Y., and Joseph Kresevich, president of the corporation.

ALLEGED SHIPMENT: On or about September 8 and 16, 1949, from the State of New York into the States of Connecticut and New Jersey.

LABEL, IN PART: "Stella D'oro Biscuit Co. * * * Margherita [or "Marble Biscuits," "Chocolate Stars," or "Pepper Rings"]."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in part of filthy substances by reason of the presence of insect fragments, larvae, larval heads, and beetles; and, Section 402 (a) (4), they had been prepared under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: February 5, 1951. Pleas of guilty having been entered, the court imposed a fine of $1,000 against the defendants, jointly and severally.

FLOUR

17058. Adulteration of flour. U. S. v. 5 Bags * * *. (F. D. C. No. 30316. Sample No. 81653–K.)

LIBEL FILED: November 30, 1950, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about August 3, 1950, from Kansas City, Mo.

PRODUCT: 5 100-pound bags of flour at Philadelphia, Pa., in possession of Martino Cones.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: January 11, 1951. Default decree of condemnation and destruction.

17059. Adulteration of griddlecake flour. U. S. v. 7 Bales * * *. (F. D. C. No. 30319. Sample No. 80222–K.)

LIBEL FILED: December 4, 1950, District of Massachusetts.

ALLEGED SHIPMENT: On or about October 18, 1950, by the Borst & Burhans Co., from Cobleskill, N. Y.

PRODUCT: 7 bales, each containing 24 2-pound bags, of griddlecake flour at Fitchburg, Mass.

LABEL, IN PART: "Rival Brand Buckwheat and Wheat Griddle Cake Flour."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and insect parts; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: January 29, 1951. Default decree of condemnation. The court ordered that the product be destroyed by the United States marshal, with the exception of 5 2-pound bags which were ordered delivered to the Food and Drug Administration. The product was fed to hogs in lieu of destruction.

17060. Adulteration of flour and corn meal. U. S. v. 183 Bags, etc. (F. D. C. No. 29745. Sample Nos. 88158–K to 88160–K, incl., 88601–K, 88602–K, 88604–K to 88606–K, incl.)

LIBEL FILED: September 26, 1950, District of New Mexico.

ALLEGED SHIPMENT: On or about June 1 and 15, 1950, from El Paso, Tex., and Lamar, Colo.

PRODUCT: 183 25-pound bags, 40 100-pound bags, and 176 50-pounds bags of flour, 13 5-pound bags of white corn meal, and 46 10-pound bags of yellow corn meal, at Silver City, N. Mex., in possession of the American Grocery Co.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of rodent urine; and, Section 402 (a) (4), they had been held under insanitary conditions whereby they may have become contaminated with filth. The articles were adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: October 23, 1950. Default decree of condemnation and destruction.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS

17061. Adulteration of unpopped popcorn. U. S. v. Better Taste Popcorn Co. Plea of nolo contendere. Fine, $1,050. (F. D. C. No. 29616. Sample Nos. 41987–K, 55763–K, 59307–K, 68978–K, 73797–K, 75606–K, 79519–K.)

INFORMATION FILED: September 29, 1950, Southern District of Indiana, against the Better Taste Popcorn Co., Anderson, Ind.

ALLEGED SHIPMENT: Between the approximate dates of December 14, 1949, and and March 27, 1950, from the State of Indiana into the States of Wisconsin, Missouri, Michigan, Pennsylvania, New York, Iowa, and Massachusetts.

LABEL, IN PART: "Davis Hybrid Popcorn * * * Better Taste Popcorn Co. Anderson, Indiana."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insects, insect fragments, moths, larvae, rodent hairs, rodent hair fragments, rodent-gnawed and insect-damaged kernels, and rodent excreta; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: January 9, 1951. A plea of nolo contendere having been entered, the court imposed a fine of $1,050.

17062. Adulteration of durum wheat. U. S. v. Woodworth Elevator Co. Plea of guilty. Fine of $200, plus costs. (F. D. C. No. 29469. Sample No. 45376–K.)

INFORMATION FILED: January 9, 1951, District of North Dakota, against the Woodworth Elevator Co., a corporation, Kensal, N. Dak.

ALLEGED SHIPMENT: On or about January 16, 1950, from the State of North Dakota into the State of Minnesota.

NATURE OF CHARGE: Adulteration, Section 402 (b) (4), wild oats and weed seeds had been added to the product and mixed and packed with it so as to increase its bulk and weight and reduce its quality.

DISPOSITION: January 24, 1951. A plea of guilty having been entered, the court imposed a fine of $200, plus costs.

17063. Adulteration of soy grits. U. S. v. 42 Bags * * *. (F. D. C. No. 29532. Sample No. 84266–K.)

LIBEL FILED: August 18, 1950, Eastern District of Tennessee.

ALLEGED SHIPMENT: On or about April 6, 1949, from Decatur, Ill.

PRODUCT: 42 100-pound bags of extracted soy grits at Knoxville, Tenn.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of live insects and insect webbing. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: January 30, 1951. Default decree of condemnation and destruction. On February 19, 1951, the order of destruction was vacated, and the marshal was directed to deliver the product to a State institution, to be used as feed for livestock or fowls.

CHOCOLATE, SUGAR, AND RELATED PRODUCTS

CANDY

17064. Misbranding of candy. U. S. v. 138 Dozen * * *. (F. D. C. No. 30360. Sample No. 92649–K.)

LIBEL FILED: January 2, 1951, Eastern District of Kentucky.

ALLEGED SHIPMENT: On or about November 28 and December 4, 1950, by E. W. McDonell, Inc., from Cincinnati, Ohio.

PRODUCT: 138 dozen candy canes at Covington, Kentucky.

LABEL, IN PART: "Merry Christmas * * * Net Wt. 1¾ Oz. or over."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents since an examination disclosed that the product was short of the declared weight.

DISPOSITION: February 1, 1951. Default decree of condemnation. The court ordered that the product be delivered to charitable institutions.

CHOCOLATE

17065. Adulteration of sweet chocolate coating. U. S. v. 80 Cases * * *. (F. D. C. No. 30210. Sample No. 86628–K.)

LIBEL FILED: December 14, 1950, Southern District of California.

ALLEGED SHIPMENT: On or about September 30, 1950, from Dorchester, Mass.

PRODUCT: 80 50-pound cases of sweet chocolate coating at Los Angeles, Calif.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect webbing and insect excreta. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: January 10, 1951. Default decree of condemnation and destruction.

SIRUP

17066. Adulteration and misbranding of sorghum sirup. U. S. v. 99 Cases, etc. (F. D. C. No. 29938. Sample No. 76479–K.)

LIBEL FILED: October 16, 1950, Western District of Arkansas.

ALLEGED SHIPMENT: On or about September 11, 1950, by M. Dawson, from Jefferson, Tex.

PRODUCT: Sorghum sirup. 99 cases, each containing 6 unlabeled 1-gallon cans, and 110 cases, each containing 12 unlabeled ½-gallon cans, at Springdale, Ark.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing glucose had been substituted in part for sorghum.

Misbranding, Section 403 (b), the product was offered for sale under the name of another food, namely, sorghum; and, Sections 403 (e) (1) and (2), the product was a food in package form and failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the contents. Further misbranding, Sections 403 (i) (1) and (2), the label failed to bear the common or usual name of the food; and the product was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each ingredient.

DISPOSITION: January 2, 1951. M. Dawson, Springdale, Ark., having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling, under the supervision of the Food and Drug Administration.

17067. Adulteration and misbranding of sorghum sirup. U. S. v. 31 Cases, etc. (F. D. C. No. 30205. Sample Nos. 77849–K, 77850–K.)

LIBEL FILED: December 13, 1950, Eastern District of Missouri.

ALLEGED SHIPMENT: In or about October or November 1950, from New Iberia, La.

PRODUCT: Sorghum sirup. 31 cases, each containing 12 ½-gallon cans, and 3 cases, each containing 6 1-gallon cans, at St. Louis, Mo.

RESULTS OF INVESTIGATION: The product was unlabeled when picked up at New Iberia, La., by Charles Miller, trucker of Joplin, Mo., but was labeled as indicated below when delivered by Charles Miller to the firm in possession of the goods at St. Louis, Mo.

LABEL, IN PART: "Sorghum Made From Pure Cane Juice * * * Weight 4½ Pounds Or Over."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a commercial glucose sirup had been substituted in whole or in part for sorghum.

Misbranding, Section 403 (a), the label designation "Sorghum" was false and misleading; and, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents since the label statement "Weight 4½ Pounds Or Over" was inaccurate and the declaration should be in terms of fluid measure. (The ½-gallon cans contained an average of 5 pounds, 9.72 ounces, and the 1-gallon cans an average of 9 pounds, 1.03 ounces.) The product was adulterated and misbranded while held for sale after shipment in interstate commerce.

DISPOSITION: January 8, 1951. Default decree of condemnation. The court ordered that the product be delivered to charitable institutions.

SUGAR

17068. Adulteration of sugar. U. S. v. 135 Bags * * *. (F. D. C. No. 30241. Sample No. 66964–K.)

LIBEL FILED: November 9, 1950, District of Maryland.

ALLEGED SHIPMENT: On or about April 22, 1950, from Ponce, P. R.

PRODUCT: 135 100-pound bags of sugar at Baltimore, Md., in possession of the Baltimore & Ohio Railroad Co.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: December 14, 1950. The Baltimore & Ohio Railroad Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond to be re-refined, under the supervision of the Food and Drug Administration.

DAIRY PRODUCTS

BUTTER

17069. Adulteration of butter. U. S. v. The Branell Creamery Co. and Anthony J. Branella. Pleas of nolo contendere. Each defendant fined $1,250; individual defendant placed on probation for 2 years. (F. D. C. No. 29169. Sample Nos. 48637–K to 48640–K, incl.)

INFORMATION FILED: October 18, 1950, Eastern District of Pennsylvania, against the Branell Creamery Co., a partnership, Philadelphia, Pa., and Anthony J. Branella, a partner.

ALLEGED VIOLATION: On or about November 15 and 21, 1949, the defendants caused various quantities of butter to be shipped from the State of Pennsylvania into the State of New Jersey.

On or about November 21, 1949, the defendants received a quantity of butter which had been shipped from the State of Illinois into the State of Pennsylvania, and caused water to be added to it while it was held for sale after shipment in interstate commerce.

LABEL IN PART: "8 Ounces Net Weight Unsalted [or "Salted"] Butter Packed For Triangle Poultry Farm Newfield, N. J."

NATURE OF CHARGE: Adulteration (butter shipped in interstate commerce), Section 402 (b) (1), a valuable constituent, milk fat, had been in part omitted; and, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

Further adulteration (butter adulterated while held for sale after shipment in interstate commerce), Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk and weight and reduce its quality.

DISPOSITION: January 15, 1951. Pleas of nolo contendere having been entered, the court imposed a fine of $1,250 against each defendant and placed the individual defendant on probation for 2 years.

CHEESE

17070. Adulteration and misbranding of grated cheese. U. S. v. 72 Boxes * * *. (F. D. C. No. 30357. Sample No. 81698–K.)

LIBEL FILED: On or about January 3, 1951, District of New Jersey.

ALLEGED SHIPMENT: On or about December 11, 1950, by the Rialto Food Products Co., from Philadelphia, Pa.

PRODUCT: 72 boxes, each containing 12 1¼-ounce canisters, of grated cheese at Camden, N. J.

LABEL, IN PART: "Rialto Italian Style Grated Cheese."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a substance high in lactose had been substituted in whole or in part for Italian style grated cheese, which the product was represented to be.

Misbranding, Section 403 (a), the label designation "Italian Style Grated Cheese" was false and misleading since the article contained a milk product other than cheese.

DISPOSITION: January 30, 1951. Default decree of condemnation. The court ordered that the product be delivered to a charitable organization, after destruction of the labels.

MISCELLANEOUS DAIRY PRODUCTS

17071. Alleged misbranding of whipping cream. U. S. v. The Borden Co. and Charles H. Young. Pleas of not guilty. Tried to the court and jury. Verdict of not guilty. (F. D. C. No. 29629. Samples Nos. 49747–K, 49778–K.)

INFORMATION FILED: November 10, 1950, Northern District of Texas, against the Borden Co., a corporation, Amarillo, Tex., and Charles H. Young, plant manager.

ALLEGED SHIPMENT: On or about April 19 and May 16, 1950, from the State of Texas into the State of Oklahoma.

LABEL, IN PART: "Borden's Whipping Cream The Borden Co. Amarillo, Texas."

NATURE OF CHARGE: Misbranding, Section 403(g)(1), it was alleged that the product failed to conform to the definition and standard of identity for whipping cream in that it contained less than 30 percent of milk fat, as required by the standard.

DISPOSITION: February 9, 1951. Pleas of not guilty having been entered, the case was tried before the court and jury, which returned a verdict of not guilty.

17072. Adulteration and misbranding of oleomargarine. U. S. v. Swift & Co. Plea of nolo contendere. Fine, $1,002. (F. D. C. No. 29652. Sample Nos. 73536–K, 79440–K.)

INFORMATION FILED: November 17, 1950, District of New Jersey, against Swift & Co., Jersey City, N. J.

ALLEGED SHIPMENT: On or about March 27 and April 3, 1950, from the State of New Jersey into the States of Massachusetts and Connecticut.

LABEL, IN PART: "Gem Margarine [or "Swift's Allsweet"] One Lb. Net Vegetable Oleomargarine * * * Manufactured By Swift & Company, General Office, Chicago, Ill."

NATURE OF CHARGE: Adulteration, Section 402(b)(2), a product which contained less than 80 percent by weight of fat had been substituted for oleomargarine.

Misbranding, Section 403(g)(1), the product failed to conform to the definition and standard of identity for oleomargarine since it contained less than 80 percent of fat, the minimum permitted by the standard.

DISPOSITION: February 2, 1951. A plea of nolo contendere having been entered, the court imposed a fine of $1,002.

17073. Adulteration and misbranding of Instant Whip. U. S. v. 500 Cylinders * * *. (F. D. C. No. 30260. Sample No. 80055–K.)

LIBEL FILED: November 17, 1950, District of Maine.

ALLEGED SHIPMENT: On or about November 9, 1950, by the Aerated Products Co., from Boston, Mass.

PRODUCT: 500 cylinders, each containing approximately 7 ounces, of Instant Whip at Portland, Maine.

LABEL, IN PART: (Cap) "Pasteurized Instant Whip Keep Contents Cold Cream with added serum solids, gelatine, nitrous oxide gas and sugar, flavored with imitation vanilla."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, milk fat, had been in part omitted.

Misbranding, Section 403 (g) (1), the product purported to be whipping cream, a food for which a definition and standard of identity has been prescribed by regulations, and it failed to conform to the definition and standard since it contained less than 30 percent of milk fat.

DISPOSITION: February 5, 1951. The shipper having consented to the destruction of the product, judgment of condemnation was entered and the court ordered that the contents of the containers be destroyed, but that the containers be returned to the shipper, conditioned that the marshal be reimbursed by the shipper for any expenses incident to carrying out the provisions of the decree.

FEEDS AND GRAINS

17074. Adulteration and misbranding of dairy feed. U. S. v. 18 Bags * * *. (F. D. C. No. 30356. Sample No. 82258–K.)

LIBEL FILED: December 27, 1950, Northern District of West Virginia.

ALLEGED SHIPMENT: On or about February 9, 1950, by the Northern Supply Co., from Amery, Wis.

PRODUCT: 18 100-pounds bags of dairy feed at Grantsville, W. Va.

LABEL, IN PART: (Tag) "Banner Dairy Feed 20 Per Cent Protein."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, protein, had been in part omitted.

Misbranding, Section 403 (a), the label designation "20 Per Cent Protein" was false and misleading since the product contained less than 20 percent of protein.

DISPOSITION: March 1, 1951. Default decree of condemnation. The court ordered that the product be delivered to a local public institution, for use as animal feed, and that if the institution did not accept the product, that it be destroyed by the marshal.

17075. Adulteration and misbranding of fish meal. U. S. v. 350 Bags * * *. (F. D. C. No. 30243. Sample No. 50004–K.)

LIBEL FILED: November 10, 1950, District of Maryland.

ALLEGED SHIPMENT: On or about August 7, 1950, by P. R. Markley, Inc., from Philadelphia, Pa.

PRODUCT: 350 unlabeled bags, each containing 100 pounds, of fish meal at Snow Hill, Md.

RESULTS OF INVESTIGATION: The product was sold under a sales contract describing the article as "Fish Meal." Fish meal is a well recognized feed component which should not contain an excess of 3 percent salt without a specific label declaration, and in no case contain more than 7 percent of salt. Examination disclosed, however, that the article contained more than 7 percent of salt.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), salt had been substituted in part for fish meal.

Misbranding, Sections 403 (e) (1) and (2), the product failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the contents; Section 403 (i) (1), its label failed to bear the common or usual name of the food; and, Section 403 (i) (2), the product was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each ingredient.

DISPOSITION: November 30, 1950. P. R. Markley, Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond to be reconditioned and relabeled, under the supervision of the Food and Drug Administration.

FISH AND SHELLFISH

17076. Adulteration and misbranding of frozen fish fillets. U. S. v. Lakeside Fish & Oyster Co. Plea of guilty. Fine of $300, plus costs. (F. D. C. No. 29621. Sample No. 15471–K.)

INFORMATION FILED: January 1, 1951, Northern District of Illinois, against the Lakeside Fish & Oyster Co., a corporation, Chicago, Ill.

ALLEGED SHIPMENT: On or about May 2, 1950, from the State of Illinois into the State of Michigan.

LABEL, IN PART: "Haddock Fillets" or "Hadd."

NATURE OF CHARGE: Misbranding, Section 403 (b), the product consisted of fish fillets other than haddock fillets and was offered for sale under the name of haddock fillets; and, Section 403 (i) (1), the label failed to bear the common or usual name of the product.

DISPOSITION: February 13, 1951. A plea of guilty having been entered, the court imposed a fine of $300, plus costs.

17077. Adulteration of canned salmon. U. S. v. 45 Cases * * *. (F. D. C. No. 30302. Sample No. 82102–K.)

LIBEL FILED: November 27, 1950, Middle District of North Carolina.

ALLEGED SHIPMENT: On or about October 5, 1950, by P. E. Harris & Co., from Seattle, Wash.

PRODUCT: 45 cases, each containing 48 1-pound cans, of salmon at Greensboro, N. C.

LABEL, IN PART: (Can) "Unica (The Only) Brand Salmon."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of rotten fish.

DISPOSITION: January 5, 1951. P. E. Harris & Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

After an unsuccessful attempt to segregate the fit portion from the unfit, the claimant decided that further sorting was impractical and destroyed the lot.

17078. Adulteration of oysters. U. S. v. 164 Pints * * * (and 1 other seizure action). (F. D. C. Nos. 30349, 30355. Samples Nos. 40510–K, 67556–K.)

LIBELS FILED: December 22 and 26, 1950, Southern District of Florida.

ALLEGED SHIPMENT: On or about December 15, 1950, by the Bivalve Oyster Packing Co., from Bivalve, Md.

PRODUCT: Oysters. 164 pints at Miami, Fla., and 240 pints at Jacksonville, Fla.

LABEL, IN PART: (Can) "Delicious B&L Co. Oysters Standards."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), water had been substituted in whole or in part for oysters; and, Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

DISPOSITION: January 15 and 19, 1951. Default decrees of forfeiture and destruction.

17079. Adulteration of oysters. U. S. v. 83 Pints, etc. (F. D. C. No. 30307, Sample Nos. 69784–K to 69787–K, incl.)

LIBEL FILED: November 30, 1950, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about November 15 and 18, 1950, by Carol Dryden & Co., Inc., from Crisfield, Md.

PRODUCT: 366 pints of oysters at Pittsburgh, Pa.

LABEL, IN PART: (Can) "Pride Of The Chesapeake Oysters."

NATURE OF CHARGE: Adulteration, Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

DISPOSITION: December 12, 1950. Default decree of condemnation and destruction.

17080. Adulteration of frozen shrimp. U. S. v. 1,435 Packages * * *. F. D. C. No. 30199. Sample No. 58543–K.)

LIBEL FILED: December 11, 1950, Southern District of California.

ALLEGED SHIPMENT: On or about November 8, 1950, by the Productos Marinos de Guaymas, from Guaymas, Mexico.

PRODUCT: 1,435 5-pound packages of frozen shrimp at Los Angeles, Calif.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed shrimp.

DISPOSITION: January 12, 1951. The Marine Products Co., San Diego, Calif., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond, conditioned that it be disposed of in compliance with the law, under the supervision of the Food and Drug Administration. The fit portion of the product was segregated and released to the claimant, and the unfit portion was denatured and packed for sale as fish bait.

FRUITS AND VEGETABLES*

FROZEN FRUIT

17081. Adulteration of frozen strawberries. U. S. v. 1,300 Pails * * *. (F. D. C. No. 29373. Sample No. 79740–K.)

LIBEL FILED: June 27, 1950, District of Massachusetts.

ALLEGED SHIPMENT: On or about May 22, 1950, by Baumer Food Products, from Ponchatoula, La.

PRODUCT: 1,300 30-pound pails of frozen strawberries at Boston, Mass.

LABEL, IN PART: (Pail) "Baumer's Cold Packed Strawberries."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of moldy berries.

DISPOSITION: February 23, 1951. Default decree of condemnation and destruction.

VEGETABLES

17082. Adulteration of canned beets, canned sweetpotatoes, canned stringless green beans, canned okra, and canned mixed vegetables (containing corn, okra, and tomatoes). U. S. v. 9 Cases, etc. (F. D. C. No. 29711. Sample Nos. 34831–K, 34832–K, 34836–K to 34838–K, incl., 34840–K, 35107–K, 35113–K, 35115–K, 35117–K to 35120–K, incl., 35541–K, 35542–K.)

LIBEL FILED: August 30, 1950, Northern District of California.

ALLEGED SHIPMENT: On or about June 27, 1950, by Pine Grove Canning Co., Inc., from St. Martinville, La.

PRODUCT: 9 cases, each containing 6 6-pound, 5-ounce cans, of sliced beets; 117 cases, each containing 6 6-pound, 5-ounce cans, 75 cases, each containing 24 1-pound, 13-ounce cans, and 22 cases, each containing 6 No. 10 cans, of sweetpotatoes; 28 cases, each containing 6 6-pound, 5-ounce cans, and 23 cases, each containing 24 1-pound, 12-ounce cans, of stringless green beans; 107 cases, each containing 6 6-pound, 5-ounce cans, and 254 cases, each containing 24 1-pound, 3-ounce cans, of okra; and 9 cases, each containing 24 1-pound, 3-ounce cans, of canned mixed vegetables (containing corn, okra, and tomatoes), at Oakland, Calif.

*See also Nos. 17051–17054.

LABEL, IN PART: (Can) "Pine Grove Brand Sliced Beets" [or "Sweet Potatoes," "Stringless Green Beans," "Okra," or "Corn, Okra and Tomatoes"]"; "Creole Maid Brand Creole Okra Dinner" [or "Whole Stringless Green Beans"]"; and "Durand's Brand * * * Sweet Potatoes."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of decomposed substances by reason of the presence of decomposed vegetable material.

DISPOSITION: December 20, 1950. Default decree of condemnation and destruction.

TOMATOES AND TOMATO PRODUCTS*

17083. Adulteration and misbranding of canned tomatoes. U. S. v. 578 Cases (and 1 other seizure action). (F. D. C. Nos. 30183, 30341. Sample Nos. 55064–K, 55065–K.)

LIBELS FILED: November 30 and December 13, 1950, Northern District of Alabama.

ALLEGED SHIPMENT: On or about September 7, 1950, by the H. J. McGrath Co., from Baltimore, Md.

PRODUCT: Tomatoes. 578 cases at Birmingham, Ala., and 525 cases at Jasper, Ala. Each case contained 24 1-pound, 3-ounce cans, of tomatoes.

LABEL, IN PART: "Realm Vine Ripened Tomatoes."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

Misbranding (Jasper lot only), Section 403 (g) (2), the product was canned tomatoes, a food for which a definition and standard of identity has been prescribed by regulations, and its label failed to bear the common name of the optional ingredient, added strained tomatoes, as required by the definition and standard; and, Section 403 (h) (1), the product fell below the standard of quality for canned tomatoes since it contained excessive peel and the label failed to bear a statement that the product fell below the standard.

DISPOSITION: February 19, 1951. Default decrees of condemnation and destruction.

17084. Adulteration of canned tomatoes. U. S. v. 160 Cases * * *. (F. D. C. No. 30209. Sample No. 70763–K.)

LIBEL FILED: December 14, 1950, Western District of Oklahoma.

ALLEGED SHIPMENT: On or about October 13, 1950, by the Roy Nelson Canning Co., from Aurora, Mo.

PRODUCT: 160 cases, each containing 48 10-ounce cans, of tomatoes at Cushing, Okla.

LABEL, IN PART: (Can) "Smile Girl Brand Hand Packed Tomatoes."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance. Examination showed that the product contained fly eggs and maggots.

DISPOSITION: January 25, 1951. Default decree of condemnation and destruction.

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*See also Nos. 17052–17054.

17085. Misbranding of canned tomatoes. U. S. v. 899 Cases * * *. (F. D. C. No. 30278. Sample No. 74834–K.)

LIBEL FILED: November 21, 1950, District of Connecticut.

ALLEGED SHIPMENT: On or about October 13, 1950, by Southern Packing Co., Inc., from Smithsburg, Md.

PRODUCT: 899 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Hartford, Conn.

LABEL, IN PART: (Can) "Suncrest * * * Solid Pack Tomatoes."

NATURE OF CHARGE: Misbranding, Section 403 (g) (2), the product failed to conform to the standard of identity for canned tomatoes in that the label failed to bear a statement that calcium salts had been added.

DISPOSITION: January 11, 1951. Gaer Bros., Inc., Hartford, Conn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the purpose of relabeling, under the supervision of the Food and Drug Administration.

17086. Misbranding of canned tomatoes. U. S. v. 840 Cases * * *. (F. D. C. No. 30227. Sample No. 85654–K.)

LIBEL FILED: December 21, 1950, District of Minnesota.

ALLEGED SHIPMENT: On or about September 14, 1950, by Albert W. Sisk & Son, from Preston, Md.

PRODUCT: 840 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Hopkins, Minn.

LABEL, IN PART: "Salem Brand Tomatoes * * * Packed by Salem Packing Co. Thos. J. Faulkner & Sons, Salem, Md."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product was below standard in quality because it contained tomato peel in excess of one square inch per pound of tomatoes in the container, and its label failed to bear a statement that it fell below the standard.

DISPOSITION: February 7, 1951. Default decree of condemnation. The court ordered that the 13 cases of the product, the amount actually seized, be delivered to a charitable institution.

17087. Adulteration of tomato puree. U. S. v. 40 Cases * * *. (F. D. C. No. 30141. Sample No. 74165–K.)

LIBEL FILED: November 16, 1950, Northern District of New York.

ALLEGED SHIPMENT: On or about September 29, 1950, by Uddo & Taormina Co., from Vineland, N. J.

PRODUCT: 40 cases, each containing 24 1-pound, 12-ounce cans, of tomato puree at Utica, N. Y.

LABEL, IN PART: "Mountain Beauty * * * Tomato Puree."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of fly eggs and maggots, and of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: December 28, 1950. Default decree of condemnation and destruction.

NUTS

17088. Adulteration of shelled almonds. U. S. v. 2 Cartons * * *. (F. D. C. No. 30363. Sample No. 66865–K.)

LIBEL FILED: December 27, 1950, District of Columbia.

ALLEGED SHIPMENT: On or about October 20, 1950, by Braun Importing Co., Inc., from New York, N. Y.

PRODUCT: 2 cartons, each containing 28 pounds, of shelled almonds at Washington, D. C.

LABEL, IN PART: (Carton) "D & G Almonds."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects, insect fragments, and insect-damaged nuts.

DISPOSITION: January 23, 1951. Default decree of condemnation. The court ordered that the product be delivered to the National Zoological Park.

17089. Adulteration of brazil nuts. U. S. v. 502 Bags * * *. (F. D. C. No. 28883. Sample No. 34566–K.)

LIBEL FILED: March 7, 1950, Northern District of California.

ALLEGED SHIPMENT: On or about October 14, 1949, from New York, N. Y.

PRODUCT: 502 bags, each containing 100 pounds, of brazil nuts at San Francisco, Calif.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product contained moldy, rancid, and otherwise decomposed nuts. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: June 2, 1950. The L. Demartini Co., a corporation, San Francisco, Calif., having appeared as claimant, a consent decree of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. After the nuts were cracked, the fit nuts were segregated from the unfit, resulting in the release of 19,238 pounds and the destruction of 24,659 pounds.

17090. Adulteration of brazil nuts. U. S. v. 9 Bags * * *. (F. D. C. No. 30149. Sample No. 43726–K.)

LIBEL FILED: November 21, 1950, Southern District of Ohio.

ALLEGED SHIPMENT: On or about October 11, 1950, by Wm. A. Higgins & Co., Inc., from New York, N. Y.

PRODUCT: 9 100-pound bags of brazil nuts at Cincinnati, Ohio.

LABEL, IN PART: "Sun Glo Large Medium Polished New Crop * * * Selected Brazil Nuts."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of moldy and otherwise decomposed nuts, and was otherwise unfit for food by reason of the presence of rancid nuts and empty shells.

DISPOSITION: February 14, 1951. Default decree of condemnation. The court having found that the product contained nuts which were fit for human consumption, ordered that the product be delivered to charitable institutions, so that the fit portion might be used by the inmates.

17091. Adulteration of chestnuts. U. S. v. 18 Barrels * * *. (F. D. C. No. 30362. Sample No. 80592–K.)

LIBEL FILED: December 28, 1950, District of Massachusetts.

ALLEGED SHIPMENT: On or about December 6, 1950, by the D. W. Brayton, Co., from Providence, R. I.

PRODUCT: 18 100-pound barrels of chestnuts at Boston, Mass.

LABEL, IN PART: (Barrel) "Products of Italy Cuneo * * * Italian Chestnuts Size A."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or part of a decomposed substance by reason of the presence of moldy nuts.

DISPOSITION: February 19, 1951. Default decree of condemnation and destruction.

17092. Adulteration of pecan granules. U. S. v. 8 Cases * * *. (F. D. C. No. 30259. Sample No. 93182–K.)

LIBEL FILED: November 17, 1950, Southern District of Florida.

ALLEGED SHIPMENT: On or about August 14, 1950, by the McRae Pecan Products Co., from Helena, Ga.

PRODUCT: 8 30-pound cases of pecan granules at Miami, Fla.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product was unfit for food by reason of the presence of rancid pecan pieces.

DISPOSITION: January 12, 1951. Default decree of forfeiture and destruction.

POULTRY

17093. Adulteration of dressed poultry. U. S. v. 11 Unlabeled Crates * * *. (F. D. C. No. 29787. Sample No. 73137–K.)

LIBEL FILED: October 6, 1950, Southern District of New York.

ALLEGED SHIPMENT: On or about September 18, 1950, by the Maplewood Packing Co., from Belfast, Maine.

PRODUCT: 11 unlabeled crates, each containing 60 to 70 pounds, of dressed poultry at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed birds; and, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal, or of an animal which had died otherwise than by slaughter.

DISPOSITION: December 28, 1950. Default decree of condemnation. The court ordered that a number of the birds be delivered to the Food and Drug Administration as a sample; that the fit portion of the remainder be segregated and delivered to a charitable institution; and that the unfit portion be destroyed. Approximately 500 pounds of poultry were found fit for human consumption and were delivered to a charitable institution.

17094. Adulteration of dressed poultry. U. S. v. 425 Pounds * * *. (F. D. C. No. 30301. Sample No. 73153–K.)

LIBEL FILED: November 28, 1950, Southern District of New York.

ALLEGED SHIPMENT: On or about November 8, 1950, by Furman & Co., Inc., Canton, Mass.

PRODUCT: 425 pounds of dressed poultry at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of birds contaminated with fecal matter, and of a decomposed substance by reason of the presence of decomposed birds; and, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal or of an animal which had died otherwise than by slaughter.

DISPOSITION: February 13, 1951. Default decree of condemnation and destruction. On February 23, 1951, the decree was amended to provide that a number of birds be delivered to the Food and Drug Administration, and that with respect to the remainder, the fit portion be segregated and delivered to charitable institutions and the unfit portion be destroyed.

17095. Adulteration of dressed poultry. U. S. v. 200 Pounds * * *. (F. D. C. No. 30300. Sample No. 73154–K.)

LIBEL FILED: November 28, 1950, Southern District of New York.

ALLEGED SHIPMENT: On or about November 6, 1950, by the Lipman Poultry Co., Bangor, Maine.

PRODUCT: 200 pounds of dressed poultry at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed birds; and, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal, or of an animal which had died otherwise than by slaughter.

DISPOSITION: February 13, 1951. Default decree of condemnation and destruction. On February 23, 1951, the decree was amended to provide that a number of birds be delivered to the Food and Drug Administration, and that with respect to the remainder, the fit portion be segregated and delivered to charitable institutions and the unfit portion be destroyed.

17096. Adulteration of dressed turkeys. U. S. v. 274 Pounds * * *. (F. D. C. No. 30333. Sample No. 73156–K.)

LIBEL FILED: December 12, 1950, Southern District of New York.

ALLEGED SHIPMENT: On or about November 4, 1950, by the Farmers Produce Co., from Willmar, Minn.

PRODUCT: 274 pounds of dressed turkeys at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of birds contaminated with excreta; and, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal, or of an animal which had died otherwise than by slaughter.

DISPOSITION: January 3, 1951. Default decree of condemnation and destruction.

17097. Adulteration of dressed turkeys. U. S. v. 157 Pounds * * *. (F. D. C. No. 30331. Sample No. 73159–K.)

LIBEL FILED: December 12, 1950, Southern District of New York.

ALLEGED SHIPMENT: On or about November 18, 1950, by Musser & Co., Wells, Minn.

PRODUCT: 157 pounds of dressed turkeys at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of birds contaminated with excreta; and, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal, or of an animal which had died otherwise than by slaughter.

DISPOSITION: January 3, 1951. Default decree of condemnation and destruction.

SPICES, FLAVORS, AND SEASONING MATERIALS

17098. Adulteration and misbranding of terpeneless oil of lemon. U. S. v. D. W. Hutchinson & Co., Inc., and Wallace Hutchinson. Pleas of guilty. Fine, $900. (F. D. C. No. 26694. Sample Nos. 13201–K, 13216–K, 18047–K.)

INFORMATION FILED: December 22, 1950, Southern District of New York, against D. W. Hutchinson & Co., Inc., and Wallace Hutchinson, president of the corporation.

ALLEGED SHIPMENT: On or about January 29, February 17, and March 9, 1948, from the State of New York into the States of New Jersey and Indiana.

LABEL, IN PART: "D. W. Hutchinson & Co. Incorporated Perfumers Chemicals Raw Materials Fine Drugs Essential Oils For Manufacturing & Professional Use Only Net 1 lb. [or "5 lbs."] Oil Lemon Terpeneless * * * New York."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a mixture of insufficiently concentrated lemon oil and other flavoring substances had been substituted for terpeneless lemon oil; and, Section 402 (b) (4), flavoring substances other than terpeneless lemon oil had been added to the product so as to reduce its quality and make it appear to be terpeneless lemon oil, which is better and of a greater value.

Misbranding, Section 403 (b), the product consisted of a mixture of insufficiently concentrated lemon oil and other flavoring substances, and it was offered for sale under the name of another food, namely terpeneless lemon oil.

DISPOSITION: January 30, 1951. Pleas of guilty having been entered, the court imposed a fine of $900 against the defendants, jointly and severally.

17099. Adulteration and misbranding of imitation black pepper. U. S. v. 8 Cases * * *. (F. D. C. No. 30313. Sample No. 91892–K.)

LIBEL FILED: November 28, 1950, District of New Jersey.

ALLEGED SHIPMENT: On or about October 13, 1950, by Quality Trading Corp., Inc., of New York, N. Y.

PRODUCT: 8 cases, each containing 24 3-ounce shakers, of imitation black pepper at Raritan, N. J. Examination disclosed that the article consisted essentially of buckwheat hulls, an unidentified cereal, pepper, chilies, and salt.

LABEL, IN PART: "Unger Brand Black Pepper Contents 3 Oz. * * * Imitation Packed By Unger & Sons Brooklyn, New York" or "Unger Brand Imitation Black Pepper Contents 3 Oz. Packed By Unger & Sons Brooklyn, New York."

The words "Black Pepper" appeared on the labels in bold type, whereas the word "Imitation" was so small that it was likely to be overlooked.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a mixture having little or no pungency had been substituted for black pepper, which the product was represented to be.

Misbranding, Section 403 (a), the prominent label designation "Black Pepper" was false and misleading.

DISPOSITION: January 2, 1951. Default decree of condemnation and destruction.

17100. Adulteration of chili peppers, ground red peppers, and base for imitation black pepper. U. S. v. 40 Bags, etc. (F. D. C. No. 29953. Sample Nos. 86041-K to 86043-K, incl.)

LIBEL FILED: On or about October 31, 1950, Eastern District of Louisiana.

ALLEGED SHIPMENT: On or about April 20, May 24, and December 21, 1949, and January 25 and August 30, 1950, from New York, N. Y., and San Antonio and Fort Worth, Tex.

PRODUCT: 40 bags of chili peppers, 42 bags of ground red peppers, and 8 bags of base for imitation black pepper at New Orleans, La.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of insects. The products were adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: December 4, 1950. Default decree of condemnation and destruction.

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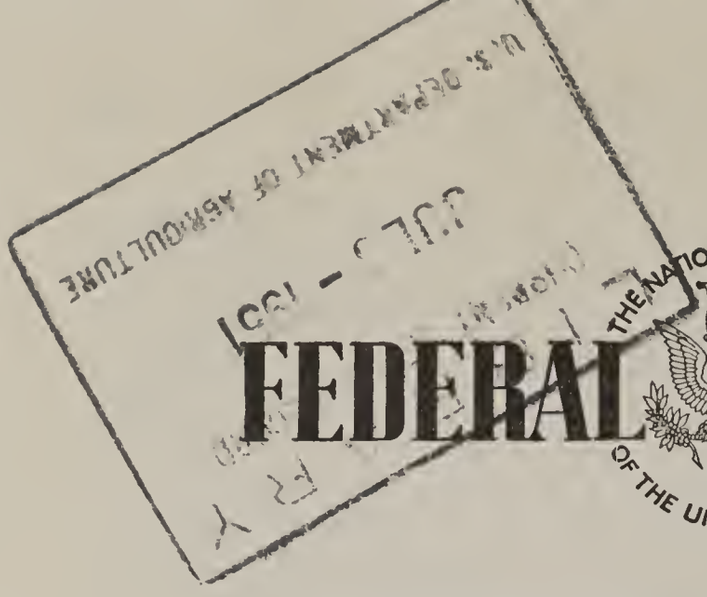
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[1] (17071) Prosecution contested.

U. S. GOVERNMENT PRINTING OFFICE: 1951



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FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

17101–17150

FOODS

The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Federal Security Agency. Published by direction of the Federal Security Administrator.

CHARLES W. CRAWFORD,
Commissioner of Food and Drugs.

WASHINGTON, D. C., *June 29, 1951.*

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CEREALS AND CEREAL PRODUCTS

BAKERY PRODUCTS

17101. Adulteration of cookies. U. S. v. Leaf Brands, Inc. (Chicago Biscuit & Cone Co., Div. of Leaf Brands, Inc.), and Sam Shankman. Pleas of nolo contendere. Corporation fined $500 and individual fined $200, plus costs. (F. D. C. No. 29614. Sample Nos. 60483–K, 60485–K, 76178–K, 84326–K.)

INFORMATION FILED: December 29, 1950, Northern District of Illinois, against Leaf Brands, Inc., trading as the Chicago Biscuit & Cone Co., Div. of Leaf Brands, Inc., Chicago, Ill., and Sam Shankman, vice president of the corporation.

ALLEGED SHIPMENT: On or about March 10 and 24 and April 3 and 5, 1950, from the State of Illinois into the States of Indiana, Minnesota, and Ohio.

LABEL, IN PART: "Asst. Long Wafers Chicago Biscuit & Cone Company Division of Leaf Brands, Inc." and "Oxford Sugar Wafers Distributed by Lakeside Biscuit Co. Div., of United Biscuit Co. of America."

NATURE OF CHARGE: Adulteration, Section 402 (a) (4), the products had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: March 21, 1951. Pleas of nolo contendere having been entered, the court imposed a fine of $500 against the corporation and $200 against the individual defendant. Costs also were imposed.

17102. Adulteration of Chinese cakes. U. S. v. Lee & Lee Co., a partnership, and James C. Y. Lee. Pleas of guilty. Partnership fined $400; individual defendant placed on probation for 1 day. (F. D. C. No. 28226. Sample Nos. 11656–K, 56643–K.)

INFORMATION FILED: December 19, 1950, Southern District of New York, against Lee & Lee Co., a partnership, New York, N. Y., and James C. Y. Lee, partner.

ALLEGED SHIPMENT: On or about June 15 and 22, 1949, from the State of New York into the State of New Jersey.

LABEL, IN PART: "Authentic Chinese Cakes Net Wt. 4 Ozs. Lee & Lee Co. New York, N. Y."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of rodent hair fragments, insects, insect fragments, and larvae; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: January 30, 1951. Pleas of guilty having been entered, the court imposed a fine of $400 against the partnership and placed the individual defendant on probation for 1 day.

17103. Adulteration of bread, buns, and sweet rolls. U. S. v. Rupp's Bakery. Plea of guilty. Fine, $1,000. (F. D. C. No. 30077. Sample Nos. 77815–K to 77819–K, incl.)

INFORMATION FILED: February 24, 1951, Eastern District of Missouri, against Rupp's Bakery, a partnership, Hannibal, Mo.

ALLEGED SHIPMENT: On or about August 21, 22, and 23, 1950, from the State of Missouri into the State of Illinois, of quantities of bread, buns, and sweet rolls.

LABEL, IN PART: "Rupp's Buns," "Rupp's Potato Body Building Bread," "Old Home Cracked Wheat Bread," "Rupp's Bakery Products," and "Rupp's Jumbo Light Bread."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in part of filthy substances by reason of the presence of insect fragments, rodent hairs, rodent hair fragments, feather barbules, insects, beetle heads, and larval cast skins; and, Section 402 (a) (4), the articles had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: March 1, 1951. A plea of guilty having been entered, the court imposed a fine of $1,000.

CORN MEAL*

17104. Adulteration of corn meal. U. S. v. 14 Bags * * *. (F. D. C. No. 30338. Sample No. 95643–K.)

LIBEL FILED: December 11, 1950, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about October 20, 1950, from Norfolk, Va.

PRODUCT: 14 100-pound bags of corn meal at Philadelphia, Pa., in possession of James Crawford & Co.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have been contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: January 11, 1951. Default decree of condemnation and destruction.

FLOUR

Nos. 17105 and 17106 report actions involving flour that was insect- or rodent-infested, or both. The flour reported in **No. 17107** failed to meet the standard for enriched flour.

17105. Adulteration of flour and corn meal. U. S. v. Central Wholesale Grocers Co., a partnership, and Tony T. Tumminello. Pleas of guilty. Partnership fined $100; Tony T. Tumminello placed on probation for 5 years. (F. D. C. No. 29480. Sample Nos. 54628–K, 54629–K.)

INFORMATION FILED: January 23, 1951, Western District of Louisiana, against Central Wholesale Grocers Co., a partnership, Colfax, La., and Tony T. Tumminello, a partner.

ALLEGED VIOLATION: Within the period from on or about February 5, 1950, to on or about March 10, 1950, the defendants received at Colfax, La., a number of bags of flour and corn meal which had been shipped in interstate commerce from the State of Oklahoma. While the products were held for sale after shipment in interstate commerce, the defendants, during the period from on or about January 28, 1950, to on or about April 3, 1950, caused a number of bags of the products to be placed in a building that was accessible to rodents whereby the products were exposed to contamination by rodents.

*See also No. 17105.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in part of filthy substances by reason of the presence of rodent urine; and, Section 402 (a) (4), they had been held under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: January 23, 1951. Pleas of guilty having been entered, the court imposed a fine of $100 against the partnership and suspended the imposition of sentence against Tony T. Tumminello and placed him on probation for 5 years.

17106. Adulteration of flour. U. S. v. 44 Bags * * *. (F. D. C. No. 30377. Sample No. 95465–K.)

LIBEL FILED: January 9, 1951, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about September 18, 1950, from Kansas City, Mo.

PRODUCT: 44 100-pound bags of flour at Philadelphia, Pa., in the possession of the Milk Maid Candy Co.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: April 4, 1951. Default decree of condemnation and destruction.

17107 Adulteration and misbranding of enriched flour. U. S. v. 400 Bags * * * (and 1 other seizure action). (F. D. C. Nos. 29710, 29723. Sample Nos. 88136–K, 88139–K, 88197–K.)

LIBELS FILED: August 30 and September 13, 1950, Western District of Texas.

ALLEGED SHIPMENT: On or about July 31 and August 14 and 16, 1950, by the Portales Milling Co., from Portales, N. Mex.

PRODUCT: 800 5-pound bags and 200 10-pound bags of enriched flour at El Paso, Tex.

LABEL, IN PART: "Portales Best [or "Best High Patent" or "El Capitan"], Enriched Flour."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), valuable constituents, thiamine (vitamin B_1), riboflavin, and iron, had been in part omitted from the article.

Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for enriched flour since the article contained less than 2.0 milligrams of thiamine, less than 1.2 milligrams of riboflavin, and less than 13.0 milligrams of iron per pound, the minimum permitted by the standard.

DISPOSITION: March 12, 1951. Default decrees of condemnation. The court ordered that the product be delivered to a Federal institution, for official use.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS

17108. Adulteration of unpopped popcorn. U. S. v. Ronald John Meyer (Ronald Meyer Popcorn Co.). Plea of guilty. Fine of $225, plus costs. (F. D. C. No. 30082. Sample Nos. 69771–K, 69772–K, 81648–K.)

INFORMATION FILED: February 26, 1951, Northern District of Iowa, against Ronald John Meyer, trading as the Ronald Meyer Popcorn Co., Carnarvon, Iowa.

ALLEGED SHIPMENT: On or about September 18, 1950, from the State of Iowa into the State of Pennsylvania.

LABEL, IN PART: (Can) "Mor-Zip Brand Popcorn Yellow Pearl Variety [or "S. A. Yellow Hybrid Variety"]."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of rodent- and insect-damaged kernels, rodent hairs, beetle larvae, and insect fragments; and, Section 402 (a) (4), the article had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: February 27, 1951. A plea of guilty having been entered the court imposed a fine of $225, plus costs, against the defendant.

17109. Adulteration of cracker meal. U. S. v 43 Cartons * * * (F. D. C. No. 30336. Sample No. 79828–K.)

LIBEL FILED: December 11, 1950, District of Massachusetts.

ALLEGED SHIPMENT: On or about October 30, 1950, by R. Fretz, from Philadelphia, Pa.

PRODUCT: 43 25-pound cartons of cracker meal at Boston, Mass.

LABEL, IN PART: "Premier Fine Cracker Meal."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: February 19, 1951. Default decree of condemnation and destruction.

DAIRY PRODUCTS

BUTTER

17110. Adulteration of butter. U. S. v. Dearmin & Co., Inc. Plea of nolo contendere. Fine of $100, plus costs. (F. D. C. No. 30071. Sample Nos. 72868–K, 84745–K.)

INFORMATION FILED: January 2, 1951, Southern District of Indiana, against Dearmin & Co., Inc., Odon, Ind.

ALLEGED SHIPMENT: On or about August 11 and September 11, 1950, from the State of Indiana into the State of Ohio.

NATURE OF CHARGE: Adulteration. Section 402 (b) (1), a valuable constituent, milk fat, had been in part omitted from the article; and Section 402 (b) (2), a product which contained less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: February 6, 1951. A plea of nolo contendere having been entered, the court imposed a fine of $100, plus costs, against the defendant.

CHEESE

17111. Adulteration of cheese. U. S. v. Anastasia G. Skourtsis (A. G. Skourtsis). Plea of guilty. Fine, $1,000. (F. D. C. No. 28107. Sample Nos. 62249–K, 62250–K.)

INFORMATION FILED: February 27, 1951, Southern District of New York, against Anastasia G. Skourtsis, trading as A. G. Skourtsis, New York, N. Y.

ALLEGED SHIPMENT: On or about October 8, 1948, from the State of New York into the State of Massachusetts.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insect and rodent hair fragments.

DISPOSITION: March 26, 1951. A plea of guilty having been entered, the court imposed a fine of $1,000 against the defendant.

17112. Adulteration of cheese. U. S. v. John Dauwalder (Bunker Hill Cheese Co.). Plea of guilty. Fine of $500, plus costs. (F. D. C. No. 29126. Sample Nos. 12551–K, 52241–K.)

INFORMATION FILED: June 20, 1950, Northern District of Ohio, against John Dauwalder, trading as the Bunker Hill Cheese Co., Millersburg, Ohio.

ALLEGED VIOLATION: On or about November 11, 1948, and May 23, 1949, the defendant gave to firms engaged in the business of shipping cheese in interstate commerce, at Dover and Canton, Ohio, guaranties to the effect that no cheese sold by the defendant to the holders of the guaranties would be adulterated or misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act.

Within the period from on or about October 13, 1949, to on or about November 16, 1949, the defendant shipped and delivered under the guaranties, at Dover and Canton, Ohio, quantities of cheese that were adulterated.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of rodent hairs, rodent-gnawed cheese, insects, and insect fragments; and, Section 402 (a) (4), the article had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: February 23, 1951. A plea of guilty having been entered, the court imposed a fine of $500, plus costs, against the defendant.

17113. Adulteration of cheese. U. S. v. Italian Cheese Mfg. Co. and Joseph P. Tito. Pleas of nolo contendere. Fine of $300 against company; imposition of sentence suspended with respect to Joseph P. Tito, and this defendant placed on probation for 1 day. (F. D. C. No. 30057. Sample Nos. 57585–K, 57586–K, 74115–K, 74116–K, 74118–K, 74119–K.)

INDICTMENT RETURNED: December 12, 1950, Eastern District of Pennsylvania, against the Italian Cheese Mfg. Co., a partnership, Bath, Pa., and Joseph P. Tito, a partner in the partnership.

ALLEGED SHIPMENT: On or about May 12 and 19, June 23 and 30, and July 11, 1950, from the State of Pennsylvania into the State of New York.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of insects, insect fragments, and rodent hair fragments; and, Section 402 (a) (4), the article had been prepared and held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: January 24, 1951. Pleas of nolo contendere having been entered, the court imposed a fine of $300 against the company and suspended the imposition of sentence against the individual, and placed the individual on probation for 1 day.

MISCELLANEOUS DAIRY PRODUCTS

17114. Adulteration of sweetened condensed milk and sweet cream. U. S. v. Ashley Milk Co. Plea of guilty. Fine of $500, plus costs. (F. D. C. No. 30065. Sample Nos. 77622–K, 77623–K.)

INFORMATION FILED: December 30, 1950, Western District of Missouri, against the Ashley Milk Co., Linn, Mo.

ALLEGED SHIPMENT: On or about October 3 and 10, 1950, from the State of Missouri into the State of Illinois.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in part of filthy substances by reason of the presence of flies, insect fragments, and manure fragments.

DISPOSITION: March 19, 1951. A plea of guilty having been entered, the court imposed a fine of $500, plus costs, against the defendant.

EGGS

17115. Adulteration of frozen eggs. U. S. v. 516 Cans, etc. (F. D. C. No. 30236. Sample No. 91987–K.)

LIBEL FILED: November 9, 1950, Eastern District of New York.

ALLEGED SHIPMENT: On or about October 9, 1950, by the Highway Butter & Egg Co., from Nashville, Tenn.

PRODUCT: 1,866 30-pound cans of frozen eggs at Brooklyn, New York.

LABEL, IN PART: "Frozen Whole Eggs * * * Packed by Goldhill Food Corp. * * * Nashville, Tennessee."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed eggs.

DISPOSITION: November 27, 1950. The Highway Butter & Egg Co., New York, N. Y., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the purpose of segregating and denaturing the unfit portion, under the supervision of the Food and Drug Administration. 1,602 cans of eggs were salvaged as fit for consumption and 259 cans were denatured.

17116. Adulteration of frozen eggs. U. S. v. 44 Cans * * *. (F. D. C. No. 29687. Sample No. 79362–K.)

LIBEL FILED: August 14, 1950, District of Massachusetts.

ALLEGED SHIPMENT: On or about July 5, 1950, by the Omaha Cold Storage Co., from Omaha, Nebr.

PRODUCT: 44 30-pound cans of frozen eggs at Boston, Mass.

LABEL, IN PART: "Frozen Whole Eggs * * * Packed & Distributed by Chapin & Adams Corp. Boston, Mass."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed eggs.

DISPOSITION: March 20, 1951. The Omaha Cold Storage Co. having filed an answer and later having withdrawn it, judgment of condemnation was entered and the court ordered that the product be destroyed.

FISH AND SHELLFISH

17117. Adulteration of frozen ocean perch fillets. U. S. v. Vinalhaven Fisheries, Inc., Anthony P. Mantia, and Jacob M. Rosengard. Plea of guilty for corporation; pleas of nolo contendere for individuals. Fine of $500 against corporation and $250 against each individual. (F. D. C. No. 29637. Sample Nos. 79325–K, 79456–K, 79457–K, 79607–K to 79609–K, incl.)

INFORMATION FILED: October 24, 1950, District of Maine, against Vinalhaven Fisheries, Inc., Vinalhaven, Maine, and against Anthony P. Mantia, president, and Jacob M. Rosengard, treasurer, of the corporation.

ALLEGED SHIPMENT: On or about April 23 and May 4 and 7, 1950, from the State of Maine into the State of Massachusetts.

LABEL, IN PART: "Bonnie Brand Fillets Frosted Ocean Perch * * * Genoa Fisheries, Inc., Gloucester and Boston, Mass." and "Silver Sea Frosted Fillets Perch * * * Jarrell & Rea—Boston."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of parasites, namely, copepods.

DISPOSITION: January 15, 1951. A plea of guilty having been entered on behalf of the corporation and pleas of nolo contendere having been entered on behalf of the individuals, the court imposed a fine of $500 against the corporation and a fine of $250 against each individual.

17118. Misbranding of canned salmon. U. S. v. 499 Cases * * *. (F. D. C. No. 30348. Sample No. 80400–K.)

LIBEL FILED: December 21, 1950, District of Massachusetts.

ALLEGED SHIPMENT: On or about August 25 and September 8, 1950, by Hamlin-Halferty Seafoods, Inc., from Seattle, Wash.

PRODUCT: 499 cases, each containing 48 7¾-ounce cans, of salmon at Boston, Mass.

LABEL, IN PART: (Can) "Sportsman's Pride Fancy Quinault Blueback Salmon Net Wt. 7¾ Oz. Packed By Mohawk Packing Co., Moclips, Wash."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label statement "Fancy Quinault Blueback Salmon" was false and misleading as applied to salmon other than blueback salmon caught in the Quinault River. Further misbranding, Section 403 (a), the label statement "Packed By Mohawk Packing Co., Moclips, Wash." was false and misleading since a portion of the product was packed by the American Packing Co., Anacortes, Wash.

DISPOSITION: January 25, 1951. Morrison & Schiff, Inc., Boston, Mass., claimant, having contested to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled in compliance with the law, under the supervision of the Food and Drug Administration.

17119. Adulteration of oysters. U. S. v. 75 pints, etc. (and 2 other seizure actions). (F. D. C. Nos. 30350, 30352, 30353. Sample Nos. 67035–K to 67037–K, incl.)

LIBELS FILED: January 2, 1951, Southern District of Florida.

ALLEGED SHIPMENT: On or about December 15, 1950, by the Gloucester Seafood Packing Co., Bena, Va.

PRODUCT: Oysters. 100 pints at Pinellas Park, Fla.; 300 pints at Tampa, Fla.; and 88 pints at St. Petersburg, Fla.

LABEL, IN PART: "Duke of Gloucester Brand Oysters Standards [or "Selects"]" or "King O' Sea Brand Oysters Selects."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), water had been substituted in whole or in part for oysters; and, Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

DISPOSITION: January 27, 1951. Default decrees of condemnation and destruction.

17120. Misbranding of canned shrimp in cocktail sauce. U. S. v. 28 Cases * * * (F. D. C. No. 29042. Sample No. 80942–K.)

LIBEL FILED: April 4, 1950, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about January 30 and March 7, 1950, by Delca Fish Preservators, Inc., from Brooklyn, N. Y.

PRODUCT: 28 cases, each containing 24 jars, of shrimp in cocktail sauce at Philadelphia, Pa.

LABEL, IN PART: (Jar) "Delca Brand Shrimp Net Contents 5 Oz. Avd. In Cocktail Sauce."

NATURE OF CHARGE: Misbranding, Section 403 (a), the word "Shrimp," which appeared on the label in heavy type, was false and misleading as applied to an article which consisted of a small amount of shrimp and a large proportion of cocktail sauce; and, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents (the article was short of the declared weight).

Further misbranding, Section 403 (k), the article contained a chemical preservative, namely, benzoic acid, and it failed to bear labeling stating that fact.

DISPOSITION: April 5, 1951. Delca Fish Preservators, Inc., claimant, having failed to file an answer, judgment of condemnation was entered and the court ordered that the product be destroyed.

FRUITS AND VEGETABLES

CANNED FRUIT

17121. Adulteration of canned apricots. U. S. v. 64 Cases * * *. (F. D. C. No. 29987. Sample No. 58828–K.)

LIBEL FILED: November 9, 1950, Northern District of Illinois.

ALLEGED SHIPMENT: On or about July 17, 1950, by the Manteca Canning Co., Inc., from Manteca, Calif.

PRODUCT: 64 cases, each containing 24 1-pound, 14-ounce cans, of apricots at Chicago, Ill.

LABEL, IN PART: (Can) "Sultana Whole Peeled Apricots In Heavy Syrup."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article was unfit for food by reason of the presence of a phenolic substance.

DISPOSITION: February 8, 1951. Default decree of condemnation and destruction.

17122. Misbranding of canned pear halves. U. S. v. 498 Cases * * *. (F. D. C. No. 29370. Sample No. 33757–K.)

LIBEL FILED: July 17, 1950, Southern District of New York.

ALLEGED SHIPMENT: On or about May 29, 1950, by the Bagley Canning Co., from Ashland, Oreg.

PRODUCT: 498 cases, each containing 24 1-pound, 13-ounce cans, of pear halves at New York, N. Y.

LABEL, IN PART: (Can) "Nuly Brand Bartlett Pear Halves in Light Syrup."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product failed to conform to the standard of quality for canned pears since all pear units of the product were not untrimmed, or were not so trimmed as to preserve their normal shape; and the label failed to bear a statement that the product fell below such standard.

DISPOSITION: February 27, 1951. The Bagley Canning Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to the claimant for relabeling, under the supervision of the Food and Drug Administration.

DRIED FRUIT

17123. Adulteration of mixed dried fruits, dried apricots, and dried pears. U. S. v. Hunt Foods, Inc. Plea of nolo contendere. Fine, $750. (F. D. C. No. 30063. Sample Nos. 34751–K, 72260–K, 84322–K.)

INFORMATION FILED: December 19, 1950, Northern District of California, against Hunt Foods, Inc., Campbell, Calif.

ALLEGED SHIPMENT: On or about February 24 and March 15, 1950, from the State of California into the States of New York and Ohio.

LABEL, IN PART: "Fuchsia Extra Choice Dried Mixture of Fruits Packed By Hunt Foods, Inc. Guggenhime Division Campbell, California" and "Hunt's California * * * Dried Pears [or "Dried Apricots"] * * * Packed By Guggenhime & Co. Division Of Hunt Foods, Inc. San Francisco, California."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in part of filthy substances by reason of the presence of insects, insect fragments, insect excreta, rodent excreta, rodent hair, and rodent hair fragments; and, Section 402 (a) (4), the articles had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: February 12, 1951. A plea of nolo contendere having been entered, the court imposed a fine of $750 against the corporation.

17124. Adulteration of evaporated black raspberries. U. S. v. 130 Boxes * * *. (F. D. C. No. 27928. Sample No. 52196–K.)

LIBEL FILED: October 19, 1949, Southern District of Ohio.

ALLEGED SHIPMENT: On or about August 24, 1949, by W. E. Otto & Co., from Naples, N. Y.

PRODUCT: 130 35-pound boxes of evaporated black raspberries at Portsmouth, Ohio.

LABEL, IN PART: "Evaporated Black Raspberries."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of rotten berries.

DISPOSITION: March 7, 1951. Default decree of condemnation and destruction.

17125. Adulteration of seeded and seedless raisins. U. S. v. 46 Cases, etc. (F. D. C. No. 29876. Sample Nos. 82093–K, 82094–K.)

LIBEL FILED: November 10, 1950, Western District of South Carolina.

ALLEGED SHIPMENT: On or about November 20, 1948, and November 4, 1949, from Del Rey, Calif.

PRODUCT: 46 cases, each containing 36 15-ounce packages, of seeded raisins, and 68 30-pound cases of seedless raisins, at Spartanburg, S. C.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the seeded raisins consisted in whole or in part of a filthy substance by reason of the presence of insects, and the seedless raisins consisted in whole or in part of a decomposed substance by reason of the presence of mold and rot. The products were adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: December 15, 1950. Default decree of condemnation. The court ordered that the seedless raisins be destroyed and that in lieu of destruction, the seeded raisins be delivered to a charitable institution, for use as animal feed.

17126. Adulteration of seedless raisins. U. S. v. 34 Cases * * *. (F. D. C. No. 29958. Sample No. 85513–K.)

LIBEL FILED: October 27, 1950, District of Minnesota.

ALLEGED SHIPMENT: On or about August 5, 1950, from Fresno, Calif.

PRODUCT: 34 30-pound cases of seedless raisins at Minneapolis, Minn.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: December 15, 1950. Default decree of condemnation. The court ordered that the product be destroyed unless properly denatured for use as animal feed, under the supervision of the Food and Drug Administration.

FROZEN FRUIT

17127. Adulteration of frozen strawberries. U. S. v. Joseph A. Prime (Prime Canning Co.). Plea of guilty. Defendant fined $500 and sentenced to 1 year in jail; jail sentence suspended and defendant placed on probation for 1 year. (F. D. C. No. 30064. Sample No. 74890–K.)

INFORMATION FILED: December 28, 1950, Western District of New York, against Joseph A. Prime, a partner in the partnership of the Prime Canning Co., Buffalo, N. Y.

ALLEGED SHIPMENT: On or about August 31, 1950, from the State of New York into the State of New Jersey.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in part of a decomposed substance by reason of the presence of moldy strawberries; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: March 5, 1951. A plea of guilty having been entered, the court imposed a fine of $500 and a sentence of 1 year in jail against the defendant. The jail sentence was suspended, and the defendant was placed on probation for 1 year.

17128. Adulteration of frozen strawberries. U. S. v. 300 Cans * * *. (F. D. C. No. 29550. Sample No. 65538–K.)

LIBEL FILED: September 11, 1950, Northern District of Illinois.

ALLEGED SHIPMENT: On or about June 6, 1950, by the Tennessee Quick Freeze & Storage Corp., from Memphis, Tenn.

PRODUCT: 300 30-pound cans of frozen strawberries at Chicago, Ill.

LABEL, IN PART: "Strawberries * * * Packed By C. C. Partee Co., Humboldt, Tenn."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of moldy and rotten berries.

DISPOSITION: March 12, 1951. Default decree of condemnation and destruction.

MISCELLANEOUS FRUIT PRODUCTS

17129. Misbranding of apple butter. U. S. v. 5 Cases * * *. (F. D. C. No. 30364. Sample No. 90606–K.)

LIBEL FILED: January 2, 1951, District of Hawaii.

ALLEGED SHIPMENT: On or about November 30, 1950, by the Pacific Food Products Co., from Seattle, Wash.

PRODUCT: 5 cases, each containing 12 jars, of apple butter at Honolulu, T. H.

LABEL, IN PART: (Jar) "Sunny Jim Pure Washington Apple Butter Contents 27 Oz."

NATURE OF CHARGE: Misbranding, Section 402 (g) (1), the article failed to conform to the definition and standard for apple butter since the soluble-solids content of the article was less than 43 percent, the minimum permitted by the standard; and, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents (the article was short of the declared weight).

DISPOSITION: February 23, 1951. American Factors, Ltd., Honolulu, T. H., having appeared as owner and claimant of the product and as agent for the shipper, and having admitted the allegations of the libel and consented to the entry of a decree, judgment of condemnation and forfeiture was entered. Following the entry of such decree, the product was destroyed.

17130. Adulteration of strawberry preserves. U. S. v. 711 Cases * * *. (F. D. C. No. 30274. Sample No. 93142–K.)

LIBEL FILED: November 20, 1950, Southern District of Florida.

ALLEGED SHIPMENT: On or about August 17, 1950, by Baumer Foods, Inc., from New Orleans, La.

PRODUCT: 711 cases, each containing 24 12-ounce jars, of strawberry preserves at Jacksonville, Fla.

LABEL, IN PART: (Jar) "Crystal Brand Pure Strawberry Preserves."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed strawberry material.

DISPOSITION: February 26, 1951. Baumer Foods, Inc., claimant, having been permitted to withdraw its claim, judgment of condemnation was entered and the court ordered that the product be destroyed.

17131. Adulteration of blueberry pie mix. U. S. v. 54 Cases * * * (and 1 other seizure action). (F. D. C. Nos. 29530, 29891. Sample Nos. 78440–K, 79132–K.)

LIBELS FILED: August 24 and September 27, 1950, Western District of Washington.

ALLEGED SHIPMENT: On or about July 4 and August 29, 1950, by the Chun King Sales Co., from Duluth, Minn.

PRODUCT: 295 cases, each containing 24 1-pound, 1-ounce cans, of blueberry pie mix at Seattle, Wash.

LABEL, IN PART: "Wilderness Blueberry Pie Mix * * * Packed By Northland Foods, Inc. Duluth, Minnesota."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of moldy and rotten blueberries.

DISPOSITION: December 15, 1950. Default decrees of condemnation and destruction.

VEGETABLES AND VEGETABLE PRODUCTS

17132. Adulteration of canned corn. U. S. v. 183 Cases, etc. Tried to the court. Judgment for Government. Decree of condemnation and destruction. (F. D. C. No. 29526. Sample Nos. 77537–K, 77538–K.)

LIBEL FILED: August 11, 1950, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about December 14, 1948, and April 14, 1949, by W. A. Lee Canneries, from Pecatonica, Ill.

PRODUCT: Whole kernel corn. 183 cases, each containing 24 1-pound, 4-ounce cans, and 600 cases, each containing 24 unlabeled cans, at St. Louis, Mo.

LABEL, IN PART: "Haase's Fancy Whole Kernal White Sweet Corn."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of worms, worm parts, and insect fragments.

DISPOSITION: W. A. Lee, doing business as W. A. Lee Canneries, having appeared as claimant and having answered the libel, the case came on for trial before the court on December 22, 1950. After the court had heard the evidence and arguments of counsel, it found the issues for the Government; and on January 30, 1951, it entered a decree condemning the product and ordering it destroyed.

17133. Misbranding of canned peas. U. S. v. 896 Cases * * *. (F. D. C. No. 30192. Sample No. 69781–K.)

LIBEL FILED: December 7, 1950, Northern District of Ohio.

ALLEGED SHIPMENT: On or about July 22 and August 11, 1950, by Littlestown Canning Co., Inc., from Littlestown, Pa.

PRODUCT: 896 cases, each containing 24 1-pound cans, of peas at Youngstown, Ohio.

LABEL, IN PART: "Valley Sun Brand Early June Peas."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the quality of the article fell below the standard of quality for canned peas since the alcohol-insoluble solids of the article were more than 23.5 percent and the label failed to bear a statement that the article fell below the standard.

DISPOSITION: April 2, 1951. Littlestown Canning Co., Inc., claimant, having admitted the allegations of the libel, judgment of forfeiture was entered and the court ordered that the product be released under bond for relabeling, under the supervision of the Federal Security Agency.

17134. Adulteration of potato chips. U. S. v. Wachusett Potato Chip Co., Inc. Plea of guilty. Fine, $100. (F. D. C. No. 29627. Sample Nos. 79459–K, 79460–K.)

INFORMATION FILED: December 12, 1950, District of Massachusetts, against Wachusett Potato Chip Co., Inc., Fitchburg, Mass.

ALLEGED SHIPMENT: On or about May 11, 1950, from the State of Massachusetts into the State of New Hampshire.

LABEL, IN PART: (Bag) "Fresh Wachusett Potato Chips * * * Wachusett Potato Chip Co., Inc. Fitchburg, Mass."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of worm-infested potatoes, and of a decomposed substance by reason of the presence of decomposed potatoes.

DISPOSITION: January 23, 1951. A plea of guilty having been entered, the court imposed a fine of $100 against the corporation.

TOMATOES AND TOMATO PRODUCTS

17135. Adulteration of canned tomatoes. U. S. v. 357 Cases * * *. (F. D. C. No. 29980. Sample No. 59348–K.)

LIBEL FILED: November 9, 1950, Northern District of Illinois.

ALLEGED SHIPMENT: On or about September 23, 1950, by the New Madison Canning Co., from New Madison, Ohio.

PRODUCT: 357 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Chicago, Ill.

LABEL, IN PART: "Su-Z-Q Favorite Tomatoes."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: January 24, 1951. Default decree of condemnation and destruction.

17136. Adulteration of canned tomatoes. U. S. v. 130 Cases * * *. (F. D. C. No. 30322. Sample No. 81685–K.)

LIBEL FILED: December 4, 1950, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about September 12, 1950, by the Willow Grove Canning Co., from Vineland, N. J.

PRODUCT: 130 cases, each containing 24 1-pound, 12-ounce cans, of tomatoes at Primos, Pa.

LABEL, IN PART: (Can) "Fiorilli Brand Italian Style Peeled Tomatoes."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: March 28, 1951. Default decree of condemnation and destruction.

17137. Adulteration and misbranding of canned tomatoes. U. S. v. 397 Cases * * *. (F. D. C. No. 29792. Sample No. 81899–K.)

LIBEL FILED: October 7, 1950, Western District of South Carolina.

ALLEGED SHIPMENT: On or about September 4, 1950, by C. C. Cole, from Hague, Va.

PRODUCT: 397 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Greenville, S. C.

LABEL, IN PART: (Can) "Cole Brand * * * Tomatoes."

NATURE OF CHARGE: Adulteration, Section 402 (b) (4), water had been added to the article and mixed and packed with it so as to increase its bulk or weight and reduce its quality or strength.

Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for canned tomatoes since it contained added water, which is not permitted as an ingredient of canned tomatoes in such definition and standard; and, Section 403 (h) (1), the quality of the article fell below the standard of quality for canned tomatoes because of excessive tomato peel, and the label failed to bear a statement that the article fell below such standard.

DISPOSITION: February 26, 1951. C. C. Cole, claimant, having filed an answer denying that the article was adulterated or misbranded and having subsequently stated that he would not oppose the entry of a decree, judgment of condemnation was entered and the court ordered that the article be delivered to a charitable institution, for use as food for human consumption and not for sale or other disposition.

17138. Misbranding of canned tomatoes. U. S. v. 844 Cases * * *. (F. D. C. No. 29776. Sample No. 66953–K.)

LIBEL FILED: October 9, 1950, Eastern District of North Carolina.

ALLEGED SHIPMENT: On or about August 18 and 19, 1950, by J. D. Raynor, from Litwalton, Va.

PRODUCT: 844 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Zebulon, N. C.

LABEL, IN PART: (Can) "Jo-Russ Tomatoes Brinkley & Council, Litwalton, Virginia."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the quality of the article fell below the standard of quality for canned tomatoes because of the low drained weight, and the label failed to bear a statement that the article fell below such standard.

DISPOSITION: April 11, 1951. Southeastern Brokerage Co., Inc., Wilmington, N. C., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling, under the supervision of the Food and Drug Administration.

17139. Misbranding of canned tomatoes. U. S. v. 650 Cases * * *. (F. D. C. No. 29949. Sample No. 70494–K.)

LIBEL FILED: October 24, 1950, Southern District of Indiana.

ALLEGED SHIPMENT: On or about October 10, 1950, from Kansas City, Kans. This was a return shipment.

PRODUCT: 650 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Union City, Ind.

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the quality of the article fell below the standard of quality for canned tomatoes because of excessive peel, and the label failed to bear a statement that the article fell below such standard.

DISPOSITION: January 10, 1951. The Jaqua Canning Co., Ansonia, Ohio, claimant and canner of the tomatoes, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling, under the supervision of the Food and Drug Administration.

17140. Adulteration of tomato catsup. U. S. v. 698 Cases * * *. (F. D. C. No. 30165. Sample No. 91118–K.)

LIBEL FILED: November 24, 1950, District of Minnesota.

ALLEGED SHIPMENT: On or about October 2, 1950, by Columbia Conserve Co., Inc., from Indianapolis, Ind.

PRODUCT: 698 cases, each containing 24 14-ounce bottles, of tomato catsup at St. Paul, Minn.

LABEL, IN PART: "Fairway * * * Tomato Catsup."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: March 28, 1951. Consent decree of condemnation. The court ordered that the product be destroyed unless denatured and disposed of for use as animal feed.

17141. Adulteration of tomato puree. U. S. v. Cedar Lake Canning Co., Inc., and Arthur C. Mead, Jr. Pleas of guilty. Corporation fined $250 and placed on probation for 3 years; individual defendant fined $250 and placed on probation for 2 years. (F. D. C. No. 26799. Sample Nos. 47988–K, 48077–K, 48078–K.)

INFORMATION FILED: June 1949, District of New Jersey, against Cedar Lake Canning Co., Inc., Cedarville, N. J., and Arthur C. Mead, Jr., secretary-treasurer of the corporation.

ALLEGED SHIPMENT: On or about September 16 and 17, 1948, from the State of New Jersey into the State of Pennsylvania.

LABEL, IN PART: "Cedar Lake Tomato Puree Contents 1 Lb. 12 Oz. Packed By Cedar Lake Canning Co., Inc. Cedarville, New Jersey."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of fly eggs, and of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: March 29, 1951. Pleas of guilty having been entered, the court fined each defendant $250 on count 1, suspended the imposition of sentence against the corporation on counts 2 and 3, dismissed counts 2 and 3 against the individual defendant, and placed the corporation on probation for 3 years and the individual defendant for 2 years.

17142. Adulteration of tomato puree. U. S. v. 214 Cases * * *. (F. D. C. No. 29839. Sample No. 81472–K.)

LIBEL FILED: On or about October 25, 1950, District of New Jersey.

ALLEGED SHIPMENT: On or about September 25, 1950, by the Penn's Manor Canning Co., from Bristol, Pa.

PRODUCT: 214 cases, each containing 6 6-pound, 9-ounce cans, of tomato puree at Atlantic City, N. J.

LABEL IN PART: (Can) "Marine Brand Tomato Puree."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITIONS January 31, 1951. Default decree of condemnation and destruction.

NUTS

17143. Adulteration of mixed nuts. U. S. v. 35 Bags * * *. (F. D. C. No. 30212. Sample No. 85019–K.)

LIBEL FILED: December 14, 1950, Western District of Kentucky.

ALLEGED SHIPMENT: On or about October 27, 1950, by S & W Fine Foods, Inc., from Modesto, Calif.

PRODUCT: 35 50-pound bags of mixed nuts at Louisville, Ky.

LABEL, IN PART: "Selected Fancy Mixed Nuts Packed By Redwood Food Packing Co., San Francisco, Calif."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect-infested filberts, and it was otherwise unfit for food by reason of the presence of empty filbert shells.

DISPOSITION: February 7, 1951. S & W Fine Foods, Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency. A total of 256 pounds of unfit nuts was segregated and destroyed.

17144. Misbranding of pistachio nuts. U. S. v. 80 Cases * * *. (F. D. C. No. 30339. Sample No. 92124–K.)

LIBEL FILED: December 12, 1950, District of New Jersey.

ALLEGED SHIPMENT: On or about November 28, 1950, by Wm. M. Allison & Co., from New York, N. Y.

PRODUCT: 80 cases, each containing 24 packages, of pistachio nuts at Delawanna, Clifton, N. J.

LABEL, IN PART: (Package) "Regency Brand Pistachio Nuts Net Wt. ¼ Lb." The net weight statement "¼ Lb." was overprinted with the statement "3½ Oz.," but the first statement remained conspicuous, while the overprint was inconspicuous.

NATURE OF CHARGE: Misbranding, Section 403 (a), the label statement "Net Wt. ¼ Lb." was false and misleading since each package contained 3.55 ounces; and, Section 403 (k), the product contained artificial color and failed to bear labeling stating that fact.

DISPOSITION: February 26, 1951. Wm. M. Allison & Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be repackaged, under the supervision of the Food and Drug Administration.

POULTRY

17145. Adulteration of dressed poultry. U. S. v. 76 Crates * * *. (F. D. C. No. 30365. Sample No. 80233–K.)

LIBEL FILED: December 28, 1950, District of Massachusetts.

ALLEGED SHIPMENT: On or about December 21, 1950, by the Maplewood Packing Co., from Belfast, Maine.

PRODUCT: Dressed poultry. 76 crates each containing from 10 to 12 birds at Boston, Mass.

LABEL, IN PART: "Mapco Brand Maine's Best."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of birds contaminated with fecal matter; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: January 5, 1951. Native Poultry Co., Inc., Boston, Mass., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reconditioning, under the supervision of the Federal Security Agency. After the reconditioning operations, which consisted in washing each bird individually, the birds were inspected and repacked into crates lined with fresh paper. Two birds were found to be unfit and were destroyed.

17146. Adulteration of dressed poultry. U. S. v. 10 Crates * * *. (F. D. C. No. 30390. Sample No. 73164–K.)

LIBEL FILED: January 29, 1951, Southern District of New York.

ALLEGED SHIPMENT: On or about December 17, 1950, by the Acme Poultry Corp., from Berlin, Md.

PRODUCT: 10 crates, containing a total of 750 pounds, of dressed poultry at New York, N. Y.

LABEL, IN PART: (Crate) "Acme Brand Fresh Killed Dressed Extra Fancy New York Dressed Maryland Poultry."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article was composed in whole or in part of a filthy substance by reason of the presence of fecal matter.

DISPOSITION: March 2, 1951. Default decree of condemnation. The court ordered that a portion of the product be delivered to the Food and Drug Administration and that the remainder be destroyed.

17147. Adulteration of dressed poultry. U. S. v. 8 Crates * * *. (F. D. C. No. 30378. Sample Nos. 80235–K, 80236–K.)

LIBEL FILED: January 10, 1951, District of Massachusetts.

ALLEGED SHIPMENT: On or about December 28, 1950, by Joe Cohen, from Yarmouth, Maine.

PRODUCT: 8 65-pound crates of dressed poultry at Boston, Mass.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of birds contaminated with fecal matter; and, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal or of an animal which had died otherwise than by slaughter.

DISPOSITION: February 6, 1951. Default decree of condemnation and destruction.

17148. Adulteration of dressed turkeys. U. S. v. 138 Pounds * * *. (F. D. C. No. 30326. Sample No. 73157–K.)

LIBEL FILED: December 11, 1950, Southern District of New York.

ALLEGED SHIPMENT: On or about November 6, 1950, by Tend-R-Turk, Inc., from Fort Dodge, Iowa.

PRODUCT: 138 pounds of dressed turkeys at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of birds contaminated with fecal matter; and, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal or of an animal which had died otherwise than by slaughter.

DISPOSITION: January 4, 1951. Default decree of condemnation. The court ordered that samples of the product be delivered to the Food and Drug Administration and that the remainder of the product be destroyed.

SPICES, FLAVORS, AND SEASONING MATERIALS

17149. Adulteration of salad dressing and sandwich spread. U. S. v. Lady's Choice Foods. Plea of nolo contendere. Fine, $2,000. (F. D. C. No. 30067. Sample Nos. 86131–K, 86132–K.)

INFORMATION FILED: January 19, 1951, Southern District of California, against Lady's Choice Foods, a corporation, Los Angeles, Calif.

ALLEGED SHIPMENT: On or about June 13, 1950, from the State of California into the State of Arizona.

LABEL, IN PART: "Lady's Choice * * * Salad Dressing [or "Sandwich Spread"]."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in part of filthy substances by reason of the presence of insect fragments, including cockroach fragments, fly fragments, and beetle fragments; and, Section 402 (a) (4), the articles had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: March 5, 1951. A plea of nolo contendere having been entered, the court imposed a fine of $2,000 against the defendant.

17150. Adulteration and misbranding of oil of lemon and oil of orange. U. S. v. 4 Cans, etc. (and 1 other seizure action). (F. D. C. Nos. 30334, 30472. Sample Nos. 65554–K, 92203–K, 92204–K.)

LIBELS FILED: December 12, 1950, and January 10, 1951, District of New Jersey and Northern District of Illinois.

ALLEGED SHIPMENT: On or about August 31 and September 28, 1950, by Berje Chemical Products, Inc., from New York, N. Y.

PRODUCT: 4 25-pound cans of oil of lemon and 8 25-pound cans of oil of orange at Paterson, N. J., and 2 25-pound cans of oil of lemon at Chicago, Ill.

LABEL, IN PART: "Oil of Lemon, Calif. U. S. P. C. P." and "Oil of Orange, Calif. U. S. P."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), substances other than genuine oil of lemon and genuine oil of orange had been substituted for oil of lemon U. S. P. and oil of orange U. S. P., respectively.

Misbranding, Section 403 (a), the label designations "Oil of Lemon, Calif. U. S. P. C. P." and "Oil of Orange, Calif. U. S. P." were false and misleading as applied to the products, which were not genuine oil of lemon and genuine oil of orange, respectively.

DISPOSITION: March 26 and April 4, 1951. Berje Chemical Products, Inc., having appeared as claimant for the New Jersey lots, but later having disclaimed any further interest in such lots, and no claimant having appeared for the Illinois lot, judgments of condemnation were entered. The court ordered that the Illinois lot be destroyed; that samples from the New Jersey lots be delivered to the Food and Drug Administration; and that the remainder of the New Jersey lots be destroyed.

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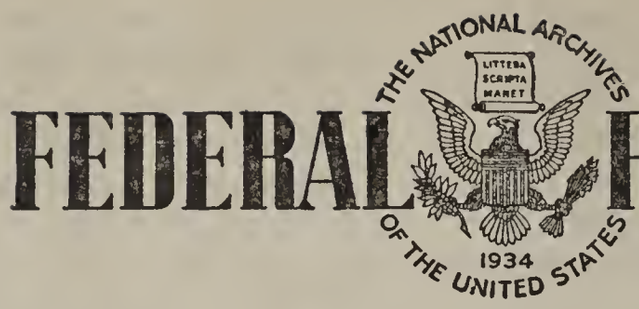
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U. S. GOVERNMENT PRINTING OFFICE: 1951



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FEDERAL SECURITY AGENCY

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

17151–17200

FOODS

The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Federal Security Agency. Published by direction of the Federal Security Administrator.

CHARLES W. CRAWFORD, *Commissioner of Food and Drugs.*

WASHINGTON, D. C.,

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CANDY AND SIRUP

CANDY

17151. Adulteration of candy. U. S. v. Manuel Virgil Davis (Davis Candy Co.). Plea of guilty. Fine, $400. (F. D. C. No. 29636. Sample Nos. 1967–K, 67435–K, 67437–K, 81923–K, 81924–K, 81956–K, 81957–K.)

INFORMATION FILED: November 14, 1950, Eastern District of Tennessee, against Manuel Virgil Davis, trading as the Davis Candy Co., Chattanooga, Tenn.

ALLEGED SHIPMENT: On or about March 23, June 19, 20, and 21, and July 1, 1950, from the State of Tennessee into the States of Georgia, Virginia, and North Carolina.

LABEL, IN PART: (Box) "Davis 1c Mint," "Davis Cocoanut Bon Bons," and "Peanut * * * Candy Sticks."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of beetles, larvae, insect fragments, and rodent hair fragments; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: February 16, 1951. A plea of guilty having been entered, the court imposed a fine of $400 against the defendant.

17152. Adulteration and misbranding of candy. U. S. v. Armstrong Candy Mfg. Co. Plea of guilty. Fine, $250. (F. D. C. No. 29615. Sample Nos. 72303–K, 82215–K, 82227–K.)

INFORMATION FILED: October 5, 1950, Eastern District of Tennessee, against the Armstrong Candy Mfg. Co., a partnership, Martel, Tenn.

ALLEGED SHIPMENT: On or about March 25, April 25, and May 5, 1950, from the State of Tennessee into the States of Kentucky and West Virginia.

LABEL, IN PART: "Armstrong's Mellow Moon [or "Choco Log," "Kokonut Creams," "I'm it Fudge," "Old Fashion Peppermint," "Lucky Bar," "Pecan Nougat," "Cream Fluff," "Coconut," "Peanut Brittle," "Streak O' Lean," "Fudge Pudding," "Nut Toastie," "Pecan Fudge," "Nut Butter Roll," or "Mint Creams"]."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in part of filthy substances by reason of the presence of insects, insect parts, rodent hairs, cat hairs, beetles, larvae, and mouse excreta pellets; and, Section 402 (a) (4), the articles had been prepared under insanitary conditions whereby they may have become contaminated with filth.

Misbranding, Section 403 (a), the statements "1¾ Oz." borne on the Pecan Fudge wrappers and "1¼ Ozs." borne on the Nut Butter Roll wrappers and "1 Oz." borne on a portion of the Mellow Moon wrappers and "1¼ Oz. or over" borne on a portion of the Lucky Bar wrappers were false and misleading since the candy contained in these wrappers weighed less than the amounts represented; and, Section 403 (e) (2), the labels on the Pecan Fudge and the Nut Butter Roll bars, and on a portion of the Mellow Moon bars and the Lucky Bar, failed to bear accurate statements of the quantity of the contents.

DISPOSITION: November 6, 1950. A plea of guilty having been entered, the court imposed a fine of $250 against the defendant.

17153. Adulteration of candy. U. S. v. 18 Boxes * * * (and 1 other seizure action). (F. D. C. Nos. 29950, 29971. Sample Nos. 77571–K, 84572–K, 84573–K.)

LIBELS FILED: October 24 and November 2, 1950, Southern District of Indiana and Eastern District of Missouri.

ALLEGED SHIPMENT: On or about October 2, 1950, by the Euclid Candy Co. of Illinois, Inc., from Chicago, Ill.

PRODUCT: 81 boxes each containing 100 candy bars at Indianapolis, Ind., and St. Louis, Mo.

LABEL, IN PART: "Net Weight 2½ Oz. Jumbo Candy Bar" and "Euclid's Cocoanut Hill Billies Net Weight 1¾ Oz."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects, insect parts, and rodent hairs; and, Section 402 (a) (4), the article had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: November 17, 1950, and January 25, 1951. Default decrees of condemnation and destruction.

17154. Adulteration of candy. U. S. v. 60 Boxes * * *. (F. D. C. No. 30452. Sample No. 69792–K.)

LIBEL FILED: December 21, 1950, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about November 27, 1950, by L. Baker Candies, from Cleveland, Ohio.

PRODUCT: 60 1-pound boxes of candy at Sharon, Pa.

LABEL, IN PART: "L.B.C. Bungalow Chocolates."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and rodent hair fragments; and, Section 402 (a) (4), the article had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: January 18, 1951. Default decree of condemnation and destruction.

SIRUP

17155. Adulteration and misbranding of sorghum sirup. U. S. v. 32 Pails, etc. (F. D. C. No. 29965. Sample No. 77935–K.)

LIBEL FILED: On or about November 8, 1950, Western District of Missouri.

ALLEGED SHIPMENT: On or about September 5, 1950, by Harry H. McClain, from Jefferson, Tex.

PRODUCT: 32 unlabeled 5-pound pails and 11 unlabeled 10-pound pails of sirup at West Plains, Mo. The product was represented to be sorghum, but examination showed that the product contained glucose.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), glucose had been substituted in part for sorghum.

Misbranding, Section 403(b), the article was offered for sale under the name of another food, sorghum; Sections 403 (e) (1) and (2), the article failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the

contents; and, Section 403 (i) (2), the article was fabricated from two or more ingredients, and its label failed to bear the common and usual name of each such ingredient.

DISPOSITION: February 2, 1951. Default decree of forfeiture. The court ordered that the product be delivered to a charitable institution for its use and not for other disposition.

CEREALS AND CEREAL PRODUCTS

BAKERY PRODUCTS

17156. Adulteration of rye bread and pumpernickel bread. U. S. v. David Mezebish (New Milford Bakery). Plea of nolo contendere. Jail sentence of 18 months suspended and defendant placed on probation for 2 years. (F. D. C. No. 30058. Sample Nos. 74805–K, 74806–K, 74809–K.)

INFORMATION FILED: December 1, 1950, District of Connecticut, against David Mezebish, trading as the New Milford Bakery, New Milford, Conn.

ALLEGED SHIPMENT: On or about July 17 and 18, 1950, from the State of Connecticut into the State of New York.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in part of filthy substances by reason of the presence of rodent hair fragments; and, Section 402 (a) (4), the articles had been prepared under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: January 22, 1951. A plea of nolo contendere having been entered, the court imposed a jail sentence of 18 months, which was suspended, and placed the defendant on probation for 2 years.

FLOUR

17157. Adulteration of flour. U. S. v. 32 Bags * * *. (F. D. C. No. 29897. Sample No. 84843–K.)

LIBEL FILED: September 27, 1950, Southern District of Indiana.

ALLEGED SHIPMENT: On or about September 14, 1950, by the J. W. Jaeger Co., from Cincinnati, Ohio.

PRODUCT: 32 100-pound bags of flour at Lawrenceburg, Ind.

LABEL, IN PART: "Keynote Flour Bleached Enriched."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects and insect parts.

DISPOSITION: December 7, 1950. The International Milling Co., Minneapolis, Minn., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond for sale as animal feed, under the supervision of the Federal Security Agency.

17158. Adulteration of rice flour. U. S. v. 20 Sacks * * *. (F. D. C. No. 29559. Sample No. 35101–K.)

LIBEL FILED: August 30, 1950, District of Hawaii.

ALLEGED SHIPMENT: On or about July 11, 1950, by the Modern Food Products Co., from San Francisco, Calif.

PRODUCT: 20 sacks, each containing 100 pounds, of rice flour at Hilo, T. H.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects.

DISPOSITION: February 12, 1951. Hilo Rice Mill Co., Ltd., Hilo, T. H., having appeared as owner and claimant of the product and as agent for the Modern Food Products Co., and having admitted the allegations of the libel and consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be destroyed.

MACARONI AND NOODLE PRODUCTS

17159. Adulteration of macaroni. U. S. v. 1,974 Cases * * *. (F. D. C. No. 30451. Sample No. 30491–K.)

LIBEL FILED: December 20, 1950, Southern District of California.

ALLEGED SHIPMENT: On or about September 21, 1950, by Galioto Bros. & Co., from Chicago, Ill.

PRODUCT: 1,974 cases, each containing 27 pounds, of macaroni at San Diego, Calif.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects.

DISPOSITION: March 13, 1951. Default decree of condemnation. The court ordered that the product be sold, conditioned that it be denatured and converted into animal feed.

17160. Misbranding of egg noodles. U. S. v. 48 Cases * * *. (F. D. C. No. 30439. Sample No. 7251–L.)

LIBEL FILED: February 12, 1951, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about December 21, 1950, by Mrs. Becker's Noodle Co., from Cleveland Heights, Ohio.

PRODUCT: 48 cases, each containing 12 12-ounce packages, of egg noodles at Erie, Pa.

LABEL, IN PART: (Package) "Pride-Of-Erie Brand Pure Egg Noodles."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label statement "4 ounces of enriched noodles will contain approximately the following proportions of minimum daily requirements: Thiamine 50%; Riboflavin 15%" was false and misleading as applied to the article, which did not provide the stated proportions of the minimum daily requirements for vitamin B_1 and riboflavin; and, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for enriched noodles since it contained less than 4 milligrams of thiamine (vitamin B_1) and less than 1.7 milligrams of riboflavin per pound, the minimums permitted by the standard.

DISPOSITION: March 7, 1951. Default decree of condemnation. The court ordered that the product be delivered to charitable institutions.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS

17161. Adulteration of shelled white corn. U. S. v. 1,600 Bushels. * * *. (F. D. C. No. 29545. Sample No. 76465–K.)

LIBEL FILED: August 25, 1950. Eastern District of Arkansas.

ALLEGED SHIPMENT: On or about July 31, 1950, by the Stratton-Theis Grain Co., from Winifred, Kans.

PRODUCT: 1,600 bushels, consisting of 90,800 pounds, of shelled white corn at Little Rock, Ark.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rat excreta, mouse excreta, and insects.

DISPOSITION: September 28, 1950. Darragh Co., Little Rock, Ark., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for conversion into stock feed, under the supervision of the Federal Security Agency.

17162. Adulteration of unpopped popcorn. U. S. v. 199 Cases * * *. (F. D. C. No. 29976. Sample No. 84808–K.)

LIBEL FILED: November 3, 1950, Southern District of Ohio.

ALLEGED SHIPMENT: On or about October 5, 1950, by the Central Popcorn Co., from Schaller, Iowa.

PRODUCT: 199 cases, each containing 24 1-pound bags, of unpopped popcorn at Dayton, Ohio.

LABEL, IN PART: "Bango * * * Popcorn Guaranteed To Pop."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects and insect- and rodent-damaged kernels; and, Section 402 (a) (4), the article had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: February 14, 1951. Default decree of condemnation. The court ordered that the product be delivered to a public institution, for use as stock feed.

DAIRY PRODUCTS

BUTTER

The following cases report actions involving butter that consisted in whole or in part of filthy or decomposed substances, **Nos. 17163 to 17166,** and that was below the legal standard for milk fat content, **Nos. 17167 and 17168.**

17163. Adulteration of butter. U. S. v. 12 Cartons (768 pounds) * * *. (F. D. C. No. 30444. Sample No. 70400–K.)

LIBEL FILED: September 29, 1950, District of Kansas.

ALLEGED SHIPMENT: On or about September 25, 1950, by the Alma Creamery Co., from Alma, Mo.

PRODUCT: 12 64-pound cartons of butter at Kansas City, Kans.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

DISPOSITION: October 30, 1950. The Alma Creamery Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered

and the court ordered that the product be released under bond for conversion into butter oil, under the supervision of the Federal Security Agency.

17164. Adulteration of butter. U. S. v. 178 Cases * * *. (F. D. C. No. 30442. Sample No. 14751–K.)

LIBEL FILED: October 30, 1950, Eastern District of Michigan.

ALLEGED SHIPMENT: On or about October 14, 1950, by Armour Creameries, from Winfield, Kans.

PRODUCT: 178 cases, each containing 32 1-pound prints, of butter at Detroit, Mich. Analysis disclosed that the product was made from decomposed cream.

LABEL, IN PART: "Spring Brook Brand Creamery Butter."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

DISPOSITION: December 15, 1950. Armour & Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for conversion into butter oil, under the supervision of the Federal Security Agency.

17165. Adulteration of butter. U. S. v. 30 Cases * * *. (F. D. C. No. 30446. Sample Nos. 81748–K, 81749–K.)

LIBEL FILED: November 7, 1950, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about October 10, 1950, by Armour & Co., from Winfield, Kans.

PRODUCT: 30 cases, each containing 32 1-pound prints, of butter at Philadelphia, Pa.

LABEL, IN PART: "Spring Brook Brand Creamery Butter * * * Armour Creameries, Distributors" or "Creamery Butter * * * Armour Creameries, Distributors."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in part of a decomposed substance.

DISPOSITION: November 28, 1950. The shipper having advised that no claim would be made for the product, judgment of condemnation was entered and the court ordered that it be destroyed.

17166. Adulteration of butter. U. S. v. 84 Cases * * *. (F. D. C. No. 30447. Sample Nos. 81875–K, 81876–K.)

LIBEL FILED: November 3, 1950, Southern District of Florida.

ALLEGED SHIPMENT: On or about October 11, 1950, by the Sugar Creek Creamery Co., from Louisville, Ky.

PRODUCT: 84 cases, each containing 32 1-pound rolls, of butter at Miami, Fla.

LABEL, IN PART: "Country Roll Creamery Butter Pasteurized Distributor Wilson & Co. General Offices Chicago, Ill."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of it having been manufactured from decomposed cream.

DISPOSITION: December 19, 1950. The Sugar Creek Creamery Co., Danville, Ill., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for conversion into butter oil, under the supervision of the Federal Security Agency.

17167. Adulteration of butter. U. S. v. 2 Boxes (128 pounds) * * *. (F. D. C. No. 30448. Sample No. 91059–K.)

LIBEL FILED: November 14, 1950, Southern District of New York.

ALLEGED SHIPMENT: On or about November 3, 1950, by Brainerd Creamery & Produce, from Brainerd, Minn.

PRODUCT: 2 boxes, each containing 64 pounds, of butter at New York, N. Y.

LABEL, IN PART: "Creamery Butter Distributed By Breakstone Bros. Inc. N. Y."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: December 15, 1950. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution for consumption and not for sale.

17168. Adulteration of butter. U. S. v. 300 Cases * * *. (F. D. C. No. 30449. Sample Nos. 92763–K, 92804–K.)

LIBEL FILED: November 8, 1950, Southern District of Ohio.

ALLEGED SHIPMENT: On or about May 11, 1950, by the Linwood Creamery, from Wichita, Kans.

PRODUCT: 300 cases, each containing 63 pounds, of butter at Cincinnati, Ohio.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: November 17, 1950. The Merchants Creamery Co., Cincinnati, Ohio, claimant, having admitted the allegations of the libel, judgment of condenmnation was entered and the court ordered that the product be released under bond for reworking, under the supervision of the Federal Security Agency.

CHEESE

17169. Adulteration and misbranding of grated cheese. U. S. v. 7 Cases * * * (and 1 other seizure action). (F. D. C. Nos. 30411, 30414. Sample Nos. 5333–L, 25096–L.)

LIBELS FILED: January 29 and February 1, 1951, Eastern District of Pennsylvania and District of Massachusetts.

ALLEGED SHIPMENT: On or about November 1 and 21, 1950, by the Jay-Arr Food Packers, from Jersey City, N. J.

PRODUCT: 15 cases, each containing 24 2-ounce jars, of grated cheese at Reading, Pa., and Rockland, Mass.

LABEL, IN PART: (Jar) "Chef's Italian Style Grated Cheese."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a substance high in lactose had been substituted in whole or in part for grated cheese.

Misbranding, Section 403 (a), the name "Grated Cheese" was false and misleading as applied to an article which contained a milk product other than cheese; Section 403(e)(2), the article failed to bear a label containing an accurate statement of the quantity of the contents (the article was short of the declared weight); and, Section 403(i)(2), the article was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient.

DISPOSITION: March 12 and April 2, 1951. Default decrees of condemnation and destruction.

17170. Adulteration and misbranding of processed cheese food. U. S. v. 5 Cases, etc. (F. D. C. No. 30122. Sample No. 85047–K.)

LIBEL FILED: November 17, 1950, Western District of Virginia.

ALLEGED SHIPMENT: On or about October 20, 1950, by H. M. Scott, Inc., from Sweetwater, Tenn.

PRODUCT: Processed cheese food. 5 cases, each containing 15 2-pound packages, and 7 cases, each containing 6 5-pound packages, at Bristol, Va.

LABEL, IN PART: (Portion) "Scott's Mountain Dale Processed Cheese Food Net Weight 2 Lbs. 45% Fat, Water Free Minimum, 45% Moisture Maximum"; (remainder) "Scott's Mountain Dale Processed Cheese Food Net Weight 5 Lbs. 30% Fat, Water Free Minimum, 41% Moisture Maximum."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing more moisture and less fat than declared on the labels had been substituted in whole or in part for the product.

Misbranding, Section 403 (a), the label statements (2-pound size) "45% Fat, Water Free Minimum, 45% Moisture Maximum" and (5-pound size) "30% Fat, Water Free Minimum, 41% Moisture Maximum" were false and misleading since the product contained more moisture and less fat than the stated amounts.

DISPOSITION: January 20, 1951. Default decree of condemnation and destruction.

FISH AND SHELLFISH

17171. Adulteration of canned mackerel. U. S. v. 601 Cases * * *. (F. D. C. No. 30453. Sample No. 82110–K.)

LIBEL FILED: December 22, 1950, Middle District of Georgia.

ALLEGED SHIPMENT: On or about November 2, 1950, by E. W. & George Rawlins, from Wilmington, Calif.

PRODUCT: 601 cases, each containing 48 15-ounce cans, of mackerel at Albany, Ga.

LABEL, IN PART: "Cal-Cap Brand California Jack Mackerel * * * Packed By Cal Cap Fisheries Inc. Wilmington Calif."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

DISPOSITION: January 17, 1951. Default decree of condemnation and destruction.

17172. Adulteration of smoked sprats. U. S. v. 197 Bundles * * *. (F. D. C. No. 30409. Sample No. 24193–L.)

LIBEL FILED: February 2, 1951, Southern District of New York.

ALLEGED SHIPMENT: On or about November 25, 1950, by Mohr & Ziegert, from Bremen, Germany.

PRODUCT: 197 bundles, each containing 5 13-ounce boxes, of smoked sprats at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of moldy fish.

DISPOSITION: March 2, 1951. Default decree of condemnation and destruction.

17173. Adulteration of canned oysters. U. S. v. 319 Cases * * *. (F. D. C. No. 27710. Sample No. 53925–K.)

LIBEL FILED: August 26, 1949, Southern District of Mississippi.

ALLEGED SHIPMENT: On or about June 10, 1949, by Hercules George, from New Orleans, La.

PRODUCT: 319 cases, each containing 48 cans, of oysters at Biloxi, Miss.

LABEL, IN PART: "Better Buy Oysters Drained Weight 4⅔ Oz." or "American Beauty Oysters."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed oysters.

DISPOSITION: December 6, 1950. Anticich Canning Co., Inc., Biloxi, Miss., having appeared as claimant, the case came on for hearing on the motion of the claimant to release portions of the product identified by certain codes. The court, after examining the proof, interrogatories, and admissions of counsel, found that the libel should be sustained and the article condemned, but that certain codes were fit for human consumption and met the requirements of the Federal Food, Drug, and Cosmetic Act. Thereupon, the court ordered that the fit codes (155 cases) be released from seizure and made available for distribution and consumption; that certain codes (113 cases) be released to the claimant under bond to be brought into compliance with the law; and that the remaining codes (7 cases) be destroyed.

FRUITS AND VEGETABLES

CANNED FRUIT

17174. Adulteration of canned blueberries. U. S. v. 39 Cases * * *. (F. D. C. No. 30327. Sample No. 80463–K.)

LIBEL FILED: December 8, 1950, District of Connecticut.

ALLEGED SHIPMENT: On or about September 6, 1950, by the Northeastern Packing Co., from Columbia Falls, Maine.

PRODUCT: 39 cases, each containing 24 1-pound, 3-ounce cans, of blueberries at Hartford, Conn.

LABEL, IN PART: (Can) "Spoon Blueberries in Juice."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of maggots.

DISPOSITION: March 14, 1951. Default decree of condemnation and destruction.

17175. Misbranding of canned cherries. U. S. v. 49 Cases * * *. (F. D. C. No. 29791. Sample No. 68459–K.)

LIBEL FILED: October 5, 1950, Eastern District of New York.

ALLEGED SHIPMENT: On or about August 28, 1950, by the Seufert Bros. Co., from The Dalles, Oreg.

PRODUCT: 49 cases, each containing 6 6-pound, 11-ounce cans, of cherries at Brooklyn, N. Y.

LABEL, IN PART: (Can) "Celilo Brand * * * Light Sweet Royal Anne Pitted Cherries In Light Syrup."

NATURE OF CHARGE: Misbranding, Section 403 (g) (2), the article purported to be and was represented as canned cherries, a food for which a definition and standard of identity had been prescribed, and its label failed to bear the name of the optional packing medium in the article since its label bore the statement "In Light Syrup," whereas the article was packed in sirup designated as "slightly sweetened water" in such standard; and, Section 403 (h) (1), the quality of the article fell below the standard of quality for canned cherries because of an excessive number of cherry pits in the article, and its label failed to bear a statement that it fell below such standard.

DISPOSITION: April 18, 1951. Seufert Bros. Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Federal Security Agency.

FROZEN FRUIT AND FRUIT PRODUCT

17176. Adulteration of frozen strawberries. U. S. v. 100 Cases * * *. (F. D. C. No. 30252. Sample No. 81753–K.)

LIBEL FILED: On or about November 20, 1950, District of New Jersey.

ALLEGED SHIPMENT: On or about October 10, 1950, by Southland Frozen Foods, from Ontario Center, N. Y.

PRODUCT: 100 cases, each containing 24 12-ounce cups, of frozen strawberries.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of rotten and moldy strawberries.

DISPOSITION: January 31, 1951. Default decree of condemnation and destruction.

17177. Misbranding of frozen strawberries. U. S. v. 330 Cases * * *. (F. D. C. No. 30177. Sample No 70421–K.)

LIBEL FILED: December 4, 1950, District of Kansas.

ALLEGED SHIPMENT: On or about May 13, 1950, by the Stilwell Canning Co., from Marionville, Mo.

PRODUCT: 330 cases, each containing 24 cartons, of frozen strawberries at Kansas City, Kans. Examination showed that the cartons were on the average 83 percent filled and that the article was short of the declared weight.

LABEL, IN PART: "Stilwell Fresh Frozen Strawberries Sliced—With Sugar Net Weight 1 Pound."

NATURE OF CHARGE: Misbranding, Section 403 (d), the container of the article was so made, formed, and filled as to be misleading; and, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents.

DISPOSITION: February 5, 1951. The Stilwell Canning Co., Stilwell, Okla., claimant, having consented to the entry of a decree, judgment of condemnation was entered, and the court ordered that the product be released under bond to be repacked into 30-pound cans and to be labeled correctly, under the supervision of the Federal Security Agency.

17178. Adulteration of frozen cherry juice. U. S. v. 409 Unlabeled Cans, etc. Claimant files answer and interrogatories. Government's objection to answering certain interrogatories overruled. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 28579. Sample No. 69038–K.)

LIBEL FILED: December 16, 1949, Western District of New York.

ALLEGED SHIPMENT: On or about November 14, 1949, by the La France Canning Co., from Sturgeon Bay, Wis.

PRODUCT: Frozen cherry juice. 409 unlabeled cans, each containing 30 pounds, and 319 unlabeled cans, each containing 50 pounds, at Webster, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of flies, maggots, and fly eggs.

DISPOSITION: On January 14, 1950, Roland La France, claimant, doing business as the La France Canning Co., Ontario, N. Y., filed an answer to the libel, denying that the product was adulterated; and on January 30, 1950, this claimant filed nine interrogatories. On February 16, 1950, the Government answered six of these interrogatories but filed objections to others, which required the Government (a) to reveal whether the analyses or tests were to determine the presence of mold or other contamination, and to describe the nature, amount, and extent of such mold or contamination; (b) to furnish a copy of each report showing the results of analyses or tests, the names of persons who prepared each report, and the dates of each report; and (c) to state whether each report related to samples collected before or after seizure. On March 20, 1950, however, the court overruled the Government's objections to answering the three interrogatories; and on or about March 30, 1950, the Government answered the interrogatories in question.

On June 9, 1950, the claimant filed an amended answer to the libel; and on June 27, 1950, the Government filed a motion to strike portions of the claimant's amended answer which motion by the Government was granted on October 18, 1950. On November 6, 1950, the Government filed interrogatories to which the claimant filed objections. On November 28, 1950, the claimant's objections were overruled; and on November 29, 1950, the claimant answered the Government's interrogatories. On December 14, 1950, the claimant having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

Reconditioning operations resulted in the release of 240 50-pound cans which were fit and the destruction of 390 30-pound cans and 68 50-pound cans which were unfit.

VEGETABLES

17179. Adulteration of canned black-eyed peas. U. S. v. 348 Cases * * *. (F. D. C. No. 29886. Sample No. 55030–K.)

LIBEL FILED: September 19, 1950, Northern District of Alabama.

ALLEGED SHIPMENT: On or about June 27 and July 28, 1950, by the Graves Thrift Co., from Henderson or Jacksonville, Tex.

PRODUCT: 348 cases, each containing 24 1-pound, 4-ounce cans, of black-eyed peas at Bessemer, Ala.

LABEL, IN PART: (Can) "Thrift Fresh Shelled Green Black Eyed Peas."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects.

DISPOSITION: February 19, 1951. The Graves Thrift Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency. A total of 176 cases of the product were segregated as unfit and were destroyed.

17180. Adulteration of chick-peas. U. S. v. 25 Bags * * *. (F. D. C. No. 30324. Sample No. 74301–K.)

LIBEL FILED: December 7, 1950, Eastern District of New York.

ALLEGED SHIPMENT: During December 1949, from French Morocco.

PRODUCT: 25 100-pound bags of chick-peas at Brooklyn, N. Y., in possession of the Prentice Stores, New York Dock Co.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of wood splinters, dirt, rodent excreta, insects, and other extraneous material; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: January 30, 1951. Default decree of condemnation and destruction.

17181. Adulteration of canned spinach. U. S. v. 52 Cases * * * (and 14 other seizure actions). (F. D. C. Nos. 30431, 30509, 30512, 30515, 30516, 30542, 30549, 30637 to 30640, incl., 30647, 30660, 30673, 30699. Sample Nos. 2868–L, 11156–L, 11158–L, 11377–L, 11565–L, 11567–L, 11569–L, 11570–L, 11576–L, 11586–L, 11662–L, 11863–L, 16159–L, 30756–L, 30758–L, 30759–L, 31956–L, 32159–L.)

LIBELS FILED: Between February 1 and March 16, 1951, Eastern District of Kentucky, Southern District of Indiana, Eastern and Western Districts of Missouri, Northern and Southern Districts of Ohio and Southern District of West Virginia.

ALLEGED SHIPMENT: Between the approximate dates of September 1, 1950, and January 29, 1951, by the Steele Canning Co., from Springdale, Ark.

PRODUCT: 2,128 cases of canned spinach at Lexington, Ky.; Vincennes and Evansville, Ind.; St. Louis, Kansas City, and Carthage, Mo.; Charleston, W. Va.; and Columbus, Dayton, Chillicothe, Marietta, Washington Court

House, and Massillon, Ohio. A number of the cases contained 6 6-pound, 2-ounce cans, and other cases contained 24 1-pound, 11-ounce (or 2-ounce) cans.

LABEL, IN PART: "Little Mill Brand [or "Scout Cabin," "Nancy Lee Brand," "Sugar Loaf Brand," "Highland," "Clarion Brand," "Nancy Jo Brand," "Honey Grove," "Pleezing," "IGA Garden," or "Clarion"] Spinach."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of worms.

DISPOSITION: Between February 28 and April 18, 1951. Default decrees of condemnation. The courts ordered that certain lots be delivered to public institutions for use as animal feed and that the other lots be destroyed.

TOMATOES AND TOMATO PRODUCTS

17182. Adulteration and misbranding of canned tomatoes. U. S. v. 299 Cases * * *. (F. D. C. No. 29868. Sample No. 84788–K.)

LIBEL FILED: November 9, 1950, Southern District of Ohio.

ALLEGED SHIPMENT: On or about September 26, 1950, by Merritt Food Products, Inc., from Sweetsers, Ind.

PRODUCT: 299 cases, each containing 6 No. 10 cans, of tomatoes at Cincinnati, Ohio.

LABEL, IN PART: (Can) "Gold Coast Brand Net Contents 1 Lb. 12 Oz. Hand Packed Tomatoes."

NATURE OF CHARGE: Adulteration, Section 402 (b) (4), water had been added to the article and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for canned tomatoes since it contained added water, which is not permitted as an ingredient of canned tomatoes in such definition and standard; Section 403 (h) (1), the quality of the article fell below the standard of quality of canned tomatoes because of excessive peel, and the article failed to bear a statement that it fell below such standard; and, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents since the statement "Net Contents 1 Lb. 12 Oz." is inaccurate. (The average net weight of the article was 104.5 ounces.)

DISPOSITION: March 30, 1951. Merritt Food Products, Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond for conversion into a manufactured food product, such as chili sauce, etc., under the supervision of the Federal Security Agency.

17183. Adulteration and misbranding of tomato catsup. U. S. v. 91 Cases * * *. (F. D. C. No. 30393. Sample No. 67255–K.)

LIBEL FILED: January 23, 1951, District of Maryland.

ALLEGED SHIPMENT: On or about October 9, 1950, by The Brakeley Food Products Co., from Folsom, N. J.

PRODUCT: 91 cases, each containing 6 7-pound, 3 ounce cans, of tomato catsup at Baltimore, Md.

LABEL, IN PART: (Can) "Queen's Taste Brand Tomato Catsup."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of fly eggs, and of a decomposed substance by reason of the presence of decomposed tomato material.

Misbranding, Section 403 (a), the label statement "Guaranteed to comply with U. S. Government Certificates of Quality" was false and misleading as applied to an article containing fly eggs and decomposed tomato material.

DISPOSITION: March 2, 1951. Default decree of condemnation and destruction.

17184. Adulteration of tomato juice. U. S. v. 99 Cases * * *. (F. D. C. No. 30424. Sample No. 3059–L.)

LIBEL FILED: February 6, 1951, District of Columbia.

ALLEGED SHIPMENT: On or about January 18, 1951, by the B. F. Shriver Co., from Littlestown, Pa.

PRODUCT: 99 cases, each containing 12 1-quart, 14-ounce cans, of tomato juice at Washington, D. C.

LABEL, IN PART: (Can) "Shriver's A No. One Tomato Juice."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

DISPOSITION: February 28, 1951. Default decree of condemnation. The court ordered that the product be delivered to the National Zoological Park for its use and not for sale.

17185. Misbranding of concentrated tomato juice. U. S. v. 49 Cases * * *. (F. D. C. No. 30244. Sample No. 35636–K.)

LIBEL FILED: On or about November 17, 1950, Northern District of Texas.

ALLEGED SHIPMENT: On or about October 17, 1950, by F. E. Booth Co., Inc., from San Francisco, Calif.

PRODUCT: 49 cases, each containing 48 6-ounce cans, of concentrated tomato juice at Dallas, Tex. The product had the consistency and appearance of tomato puree.

LABEL, IN PART: (Can) "Booth's Crescent Brand California Concentrated Tomato Juice."

NATURE OF CHARGE: Misbranding, Section 403 (a), the name "Concentrated Tomato Juice" was false and misleading in that the article when reconstituted as directed did not have the nutritional properties of tomato juice since the vitamin C content would be materially less than would be present in tomato juice; and, Section 403 (g) (2), the article purported to be tomato puree, a food for which a definition and standard of identity had been prescribed by regulations, and its label failed to bear the name of the food specified in such definition and standard.

DISPOSITION: February 6, 1951. Default decree of condemnation. The court ordered that the product be delivered to a Federal institution.

17186. Adulteration of tomato paste. U. S. v. 619 Cases * * *. (F. D. C. No. 30394. Sample No. 32869–K.)

LIBEL FILED: January 24, 1951, District of Massachusetts.

ALLEGED SHIPMENT: On or about December 14, 1950, by Hershel California Fruit Products Co., Inc., from San Jose, Calif.

PRODUCT: 619 cases, each containing 96 6-ounce cans, of tomato paste at Boston, Mass.

LABEL, IN PART: (Can) "La Dolce Vita Brand Tomato Paste."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: March 22, 1951. The shipper of the product having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be destroyed.

17187. Adulteration of tomato puree. U. S. v. 33 Cases * * *. (F. D. C. No. 30345. Sample No. 81767–K.)

LIBEL FILED: December 18, 1950, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about October 5, 1950, by C & E Canners, from Hammonton, N. J.

PRODUCT: 33 cases, each containing 24 1 pound, 12-ounce cans, of tomato puree at Philadelphia, Pa.

LABEL, IN PART: (Can) "ECO Brand Tomato Puree."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of fly eggs and maggots, and of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: April 4, 1951. Default decree of condemnation and destruction.

MEAT AND POULTRY

17188. Adulteration of dressed rabbits. U. S. v. 1 Barrel * * * (and 1 other seizure action). (F. D. C. Nos. 30420, 30422. Sample Nos. 24296–L, 24297–L.)

LIBELS FILED: February 8, 1951, Southern District of New York.

ALLEGED SHIPMENT: On or about January 16, 1951, by C. Hansen & Co., from Preston, Kans.

PRODUCT: Dressed rabbits. 1 barrel containing a total of 136 pounds and 1 barrel containing a total of 146 pounds at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of fecal matter, dirt, and rabbit hairs; and, Section 402(a)(5) the rabbits in one of the barrels consisted in whole or in part of the product of diseased animals by reason of the presence of diseased rabbits.

DISPOSITION: March 2, 1951. Default decrees of condemnation. The court ordered that samples of the product be delivered to the Federal Security Agency and that the remainder of the product be destroyed.

17189. Adulteration of dressed poultry. U. S. v. 22 Boxes * * *. (F. D. C. No. 30405. Sample No. 73167–K.)

LIBEL FILED: February 2, 1951, Southern District of New York.

ALLEGED SHIPMENT: On or about November 29, 1950, by Long Prairie Produce Assn., from Long Prairie, Minn.

PRODUCT: 22 boxes, containing a total of 730 pounds, of dressed poultry at New York, N. Y.

LABEL, IN PART: "Fowl Grade—C."

NATURE OF CHARGE: Adulteration, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal.

DISPOSITION: March 2, 1951. Default decree of condemnation. The court ordered that samples of the product be delivered to the Federal Security Agency and that the remainder of the product be destroyed.

17190. Adulteration of dressed poultry. U. S. v. 17 Boxes * * *. (F. D. C. No. 30470. Sample No. 89876–K.)

LIBEL FILED: January 5, 1951, District of Nebraska.

ALLEGED SHIPMENT: On or about September 29 and October 4, 1950, by Farmers Produce, Inc., from Cambridge, Minn.

PRODUCT: 17 boxes of dressed poultry at Omaha, Nebr.

NATURE OF CHARGE: Adulteration, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal, or of an animal which had died otherwise than by slaughter.

DISPOSITION: January 19, 1951. C. A. Swanson & Sons, Omaha, Nebr., claimant, having consented to the entry of a decree, judgment of condemnation was entered, and the court ordered that the product be released under bond for segregation and destruction of the unfit portion under the supervision of the Federal Security Agency. A total of 37 head of poultry were found to be unfit and were destroyed, and 173 head were found to be satisfactory.

17191. Adulteration of dressed poultry. U. S. v. 6 Crates * * *. (F. D. C. No. 30434. Sample No. 24298–L.)

LIBEL FILED: February 15, 1951, Southern District of New York.

ALLEGED SHIPMENT: On or about January 22, 1951, by Garrison Kaufman, from Flemington, N. J.

PRODUCT: 6 crates of dressed poultry weighing 333 pounds at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal.

DISPOSITION: March 9, 1951. Default decree of condemnation. The court ordered that samples of the product be delivered to the Federal Security Agency and that the remainder of the product be destroyed.

17192. Adulteration of dressed poultry. U. S. v. 1 Crate * * *. (F. D. C. No. 30392. Sample No. 73165–K.)

LIBEL FILED: January 29, 1951, Southern District of New York.

ALLEGED SHIPMENT: On or about December 15, 1950, by United Wholesale Butchers, Inc., from Lakewood, N. J.

PRODUCT: 1 crate, containing 82 pounds, of dressed poultry at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent-gnawed birds and birds contaminated with rodent excreta; and, Section 402 (a) (4), the article had been packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: February 14, 1951. Default decree of condemnation. The court ordered that a portion of the product be delivered to the Federal Security Agency and that the remainder of the product be destroyed.

17193. Adulteration of dressed poultry. U. S. v. 170 Pounds * * *. (F. D. C. No. 30329. Sample No. 73158–K.)

LIBEL FILED: December 11, 1950, Southern District of New York.

ALLEGED SHIPMENT: On or about November 18, 1950, by Diamond State Poultry Co., Inc., from Lewes, Del.

PRODUCT: 170 pounds of dressed poultry at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of birds contaminated with excreta.

DISPOSITION: February 20, 1951. Diamond State Poultry Co., Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation of the unfit portion, under the supervision of the Federal Security Agency. 33 birds were found to be unfit, and the remaining 20 birds were found to be passable and were released to the claimant.

17194. Adulteration of dressed turkeys. U. S. v. 14 Crates * * *. (F. D. C. No. 30408. Sample No. 73168–K.)

LIBEL FILED: January 30, 1951, Southern District of New York.

ALLEGED SHIPMENT: On or about November 30, 1950, by Tend-R-Turk, Inc., from Fort Dodge, Iowa.

PRODUCT: 14 crates, containing a total of 1,239 pounds, of dressed turkeys at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of fecal matter; and, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal, or of an animal which had died otherwise than by slaughter.

DISPOSITION: February 27, 1951. Default decree of condemnation. The court ordered that samples of the product be delivered to the Federal Security Agency, and that with respect to the remainder of the product, the court ordered that the unfit birds be segregated and destroyed and that the portion which was fit for human consumption be delivered to a charitable institution. 48 birds out of the 82 seized were found to be passable.

SPICES, FLAVORS, AND SEASONING MATERIALS

17195. Adulteration of caraway seed. U. S. v. 5 Bags * * *. (F. D. C. No. 30166. Sample Nos. 85475–K, 85480–K.)

LIBEL FILED: November 28, 1950, District of Minnesota.

ALLEGED SHIPMENT: On or about September 22, 1950, by Levy & Levis Co., Inc., from New York, N. Y.

PRODUCT: 5 110-pound bags of caraway seed at St. Paul, Minn.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects and rodent excreta.

DISPOSITION: March 21, 1951. A default decree was entered providing for the destruction of the product unless denatured and disposed of as animal feed.

17196. Adulteration and misbranding of oil of lemon. U. S. v. 3 Cans * * *. (F. D. C. No. 30473. Sample Nos. 86044–K, 86055–K.)

LIBEL FILED: On or about January 16, 1951, Northern District of Texas.

ALLEGED SHIPMENT: On or about September 28, 1950, by Berje Chemical Products, Inc., from New York, N. Y.

PRODUCT: 3 25-pound cans of oil of lemon at Dallas, Tex.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a substance which was not genuine oil of lemon had been substituted in whole or in part for Oil of Lemon U. S. P.

Misbranding, Section 403 (a), the label designation "Oil Of Lemon, Calif. U. S. P. C. P." was false and misleading as applied to an article which was not genuine oil of lemon.

DISPOSITION: April 4, 1951. Default decree of condemnation and destruction.

17197. Adulteration and misbranding of black pepper. U. S. v. 3 Cases * * *. (F. D. C. No. 30169. Sample No. 48828–K.)

LIBEL FILED: November 24, 1950, Middle District of Pennsylvania.

ALLEGED SHIPMENT: On or about October 13, 1950, by the Jay-Arr Food Products, from Jersey City, N. J.

PRODUCT: 3 cases, each containing 24 1-ounce jars, of black pepper at Scranton, Pa.

LABEL, IN PART: "JR Brand Pure Pepper."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), buckwheat hulls and salt had been substituted in part for pepper.

Misbranding, Section 403 (a), the label designation "Pure Pepper" was false and misleading as applied to an article which consisted of a mixture of pepper, buckwheat hulls, and salt.

DISPOSITION: March 8, 1951. Default decree of condemnation and destruction.

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17198. Misbranding of black pepper. U. S. v. 3 Cases * * *. (F. D. C. No. 30389. Sample Nos. 80060–K, 5231–L.)

LIBEL FILED: January 22, 1951, District of Maine.

ALLEGED SHIPMENT: On or about December 14, 1950, by the Whitehall Food Mfg. Corp., from New York, N. Y.

PRODUCT: 3 cases, each containing 72 glass shakers, of black pepper at Portland, Maine.

LABEL, IN PART: "Pure Black Pepper Maison Royal Brand Cont. 11/16 oz. Dist. Food Trading Corp. of Am. N. Y."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents (the article was short of the declared weight).

DISPOSITION: April 20, 1951. The shipper having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be delivered to a charitable institution.

17199. Adulteration and misbranding of piccalilli peppers. U. S. v. 22 Cases * * *. (F. D. C. No. 30381. Sample No. 81777–K.)

LIBEL FILED: January 11, 1951, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about November 22, 1950, by Uddo & Taormina Co., from Vineland, N. J.

PRODUCT: 22 cases, each containing 24 jars, of piccalilli peppers at Philadelphia, Pa.

LABEL, IN PART: (Jar) "Il Primo Brand Piccalilli Peppers Contents 7½ Fluid Ozs."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of fly eggs and maggots, and of a decomposed substance by reason of the presence of rotten pepper pieces.

Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents since the label statement "Contents 7½ Fluid Ozs." was inaccurate (the article was short volume), and the weight should have been declared in terms of avoirdupois ounces rather than fluid ounces.

DISPOSITION: March 28, 1951. The shipper of the product having advised that he would not interpose any defense to the action, judgment of condemnation was entered and the court ordered that the product be destroyed.

17200. Adulteration of pizza sauce. U. S. v. 8 Cases * * *. (F. D. C. No. 30379. Sample No. 81773–K.)

LIBEL FILED: January 10, 1951, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about October 20, 1950, by the Violet Packing Co., from Williamstown, N. J.

PRODUCT: 8 cases, each containing 6 6-pound, 6-ounce cans, of pizza sauce at Philadelphia, Pa.

LABEL, IN PART: (Can) "Violet Brand Sauce * * * For Pizza or Spaghetti."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of fly eggs and maggots.

DISPOSITION: April 4, 1951. Default decree of condemnation and destruction.

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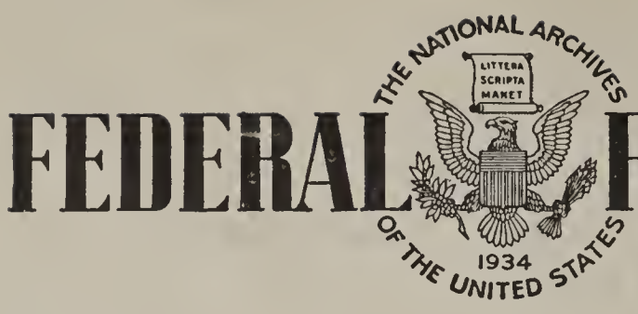
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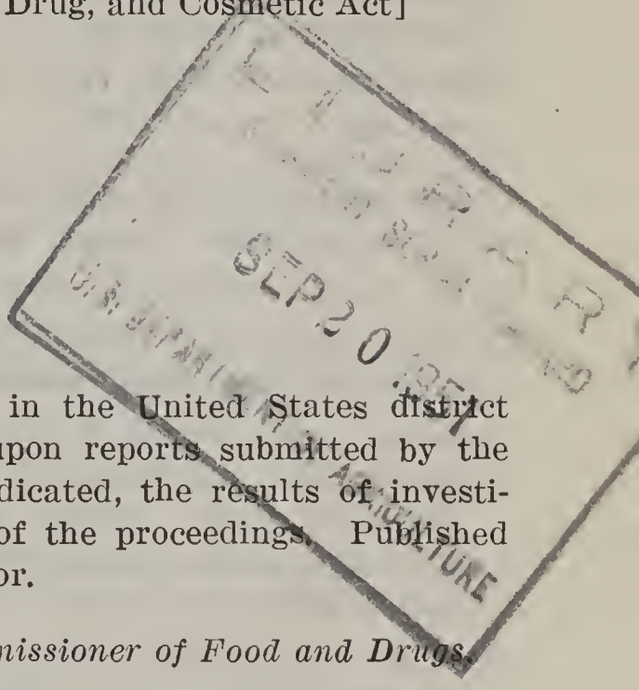
FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

17201–17250

FOODS



The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Federal Security Agency, and include, where indicated, the results of investigations of the Agency, prior to the institution of the proceedings. Published by direction of the Federal Security Administrator.

CHARLES W. CRAWFORD, *Commissioner of Food and Drugs.*
WASHINGTON, D. C., *August 16, 1951.*

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BEVERAGES AND BEVERAGE MATERIALS*

17201. Adulteration of beer. U. S. v. Goodhue County Brewing Co., a corporation. Plea of guilty. Fine, $1,000. (F. D. C. No. 29634. Sample No. 75783–K.)

INFORMATION FILED: November 2, 1950, District of Minnesota, against the Goodhue County Brewing Co., Red Wing, Minn.

ALLEGED SHIPMENT: On or about June 30, 1950, from the State of Minnesota into the State of Wisconsin.

LABEL, IN PART: (Barrel) "½ Bbl. Goodhue County Brewing Co. Red Wing, Minnesota Red Wing Premium Beer."

NATURE OF CHARGE: Adulteration, Section 402 (a) (4), the product had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: April 9, 1951. A plea of guilty having been entered, the court imposed a fine of $1,000.

17202. Adulteration of coffee sweepings. U. S. v. 860 Pounds * * *. (F. D. C. No. 29856. Sample Nos. 57476–K, 57477–K.)

LIBEL FILED: October 30, 1950, Eastern District of New York.

ALLEGED SHIPMENT: On or about February 6 and 9, 1950, by the Hills Bros. Coffee Co., from San Francisco, Calif.

PRODUCT: 860 pounds of coffee sweepings in 7 bags at Brooklyn, N. Y. The product was a portion of a shipment of coffee made by steamship from San Francisco, Calif. During the unloading of the steamships at destination, some of the coffee became spilled and such spillage was swept up and gathered into the above-mentioned 7 bags.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta and dirt, and it was otherwise unfit for food by reason of the presence of wood splinters, matted fibers, pieces of glass, and other nondescript extraneous material.

DISPOSITION: February 14, 1951. Default decree of condemnation and destruction.

17203. Adulteration of coffee sweepings. U. S. v. 7 Bags * * *. (F. D. C. No. 28707. Sample No. 56713–K.)

LIBEL FILED: February 10, 1950, Eastern District of New York.

ALLEGED SHIPMENT: On or about September 27, 1949, from various foreign countries.

PRODUCT: 7 bags of coffee sweepings at Brooklyn, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article was filthy and unfit for food by reason of the presence of dirt, shreds of tobacco, wood splinters, stones, and other extraneous material. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: February 14, 1951. Default decree of condemnation and destruction.

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*See also No. 17238.

CANDY AND MISCELLANEOUS SACCHARINE PRODUCT

CANDY

17204. Adulteration of candy. U. S. v. 8 Boxes, etc. (F. D. C. No. 30402. Sample Nos. 5172–L, 5173–L.)

LIBEL FILED: January 25, 1951, District of Massachusetts.

ALLEGED SHIPMENT: On or about December 20, 1950, by the Milk Maid Candy Co., from Philadelphia, Pa.

PRODUCT: 27 boxes of candy at Boston, Mass.

LABEL, IN PART: "Pinwheels—120 Count [or "Gyros—120 Count"] Candy by Milk Maid."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments; and, Section 402 (a) (4), the article had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: March 12, 1951. Default decree of condemnation and destruction.

17205. Adulteration of candy. U. S. v. 382 Cases * * *. (F. D. C. No. 30450. Sample No. 43394–K.)

LIBEL FILED: January 4, 1951, Northern District of Illinois.

ALLEGED SHIPMENT: On or about December 4, 1950, by Happiness Candy Stores, Inc., from Buffalo, N. Y.

PRODUCT: 382 cases, each containing 12 boxes, of peppermint cream patties at Chicago, Ill.

LABEL, IN PART: (Box) "24 Count Curtiss Wt. 1¾ Lbs. Peppermint Cream Pattie."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and rodent hair fragments; and, Section 402 (a) (4), the article had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: March 2, 1951. Default decree of condemnation and destruction.

MISCELLANEOUS SACCHARINE PRODUCT

17206. Adulteration of Sweetabs. U. S. v. 2 Cases, etc. (F. D. C. No. 29543. Sample Nos. 35055–K, 35056–K.)

LIBEL FILED: August 25, 1950, Northern District of California.

ALLEGED SHIPMENT: On or about April 20, 1950, by the Allied Molasses Co., from Perth Amboy, N. J.

PRODUCT: 10 cases, each containing 144 100-tablet bottles, of Sweetabs at San Francisco, Calif.

LABEL, IN PART: (Portion) "Sweetabs Double Strength—Ingredients Saccharin 21.5 Mgms., Dulcin 14.7 Mgms. Per Tablet"; (remainder) "Sweetabs—Ingredients Saccharin 10.7 Mgms., Dulcin 7.4 Mgms. Per Tablet."

NATURE OF CHARGE: Adulteration, Section 402 (a) (2), the product contained dulcin, an added poisonous and deleterious substance, which is unsafe within the meaning of the law.

DISPOSITION: December 20, 1950. Default decree of condemnation and destruction.

CEREALS AND CEREAL PRODUCTS

BAKERY PRODUCTS

17207. Adulteration of bread. U. S. v. Midland Bakeries Co., a corporation, and Albert E. McCready. Pleas of nolo contendere. Corporation fined $1,000 and individual defendant fined $100 plus costs. (F. D. C. No. 30079. Sample Nos. 76677–K, 76678–K.)

INFORMATION FILED: January 26, 1951, Eastern District of Missouri, against the Midland Bakeries Co., St. Louis, Mo., and Albert E. McCready, vice president and plant manager.

ALLEGED SHIPMENT: On or about August 25, 1950, from the State of Missouri into the State of Illinois.

LABEL, IN PART: "Toastmaster Bread * * * Honey Krushed Wheat Bread."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insect fragments, mites, and larvae.

DISPOSITION: February 20, 1951. Pleas of nolo contendere having been entered, the corporation was fined $1,000, plus costs, and the individual defendant was fined $100, plus costs.

17208. Adulteration of soda crackers. U. S. v. 283 Cases * * *. (F. D. C. No. 30150. Sample Nos. 78976–K, 78979–K.)

LIBEL FILED: November 29, 1950, District of Oregon.

ALLEGED SHIPMENT: On or about October 11, 1950, by the Pacific Cracker Co., from Los Angeles, Calif.

PRODUCT: 283 cases, each containing 12 ½-pound packages, of soda crackers at Portland, Oreg.

LABEL, IN PART: "Pacific Thin Flake Saltine Crackets."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect parts; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: February 19, 1951. Default decree of condemnation and destruction.

FLOUR

17209. Adulteration of flour. U. S. v. 604 Bags, etc. (F. D. C. No. 29865. Sample Nos. 82038–K, 82040–K.)

LIBEL FILED: November 6, 1950, Southern District of Florida.

ALLEGED SHIPMENT: On or about September 8, 19, and 20, and October 2 and 6, 1950, from Chattanooga, Tenn., and Enid, Okla.

PRODUCT: 1,136 25-pound bags of flour at Jacksonville, Fla., in possession of the Winn & Lovett Grocery Co.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent urine in all lots, and of insects in 202 bags of the product; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: November 15, 1950. The Winn & Lovett Grocery Co., a corporation, Jacksonville, Fla., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation and salvage under the supervision of the Food and Drug Administration. Salvaging operations resulted in the destruction of 704 25-pound bags of flour and the release for distribution of 422 25-pound bags of flour, with the understanding that the released flour to be protected from future contamination.

17210. Adulteration of flour. U. S. v. 126 Bags * * *. (F. D. C. No. 30388. Sample No. 4751–L.)

LIBEL FILED: January 19, 1951, District of Massachusetts.

ALLEGED SHIPMENT: On or about December 1, 1950, from Great Falls, Mont.

PRODUCT: 126 100-pound bags of flour at Charlestown, Mass., in the possession of H. Rohtstein & Co., Inc.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: February 7, 1951. H. Rohtstein & Co., Inc., Boston, Mass., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation and denaturing of the unfit portion, under the supervision of the Food and Drug Administration. Salvaging operations resulted in the release of 100 100-pound bags of flour found to be free of contamination and the denaturing and disposition for purposes other than for human food of 26 bags found to be contaminated.

17211. Adulterating of self-rising flour. U. S. v. 147 Bags * * *. (F. D. C. No. 30413. Sample No. 1792–L.)

LIBEL FILED: On or about February 7, 1951, Northern District of Georgia.

ALLEGED SHIPMENT: On or about December 22, 1950, from Hays, Kans.

PRODUCT: 147 10-pound bags of self-rising flour at Carrollton, Ga., in possession of the City Supply Co., Inc.

NATURE OF CHARGE: Adulteration, Section 402 (a) (4), the article had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: February 16, 1951. The City Supply Co., Inc., claimant, having admitted the allegations of the libel and consented to the entry of a decree of destruction, judgment of condemnation was entered and the court ordered that the product be destroyed. On February 21, 1951, the decree was amended to provide for the delivery of the product to a Federal institution, for use as animal feed.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS

17212. Adulteration of brewers rice. U. S. v. Rosenberg Bros. & Co., Inc. Plea of nolo contendere. Fine, $1,750. (F. D. C. No. 29656. Sample Nos. 46788–K, 48804–K, 48805–K, 48866–K, 48871–K, 69397–K, 69398–K.)

INFORMATION FILED: January 3, 1951, Northern District of California, against Rosenberg Bros. & Co., Inc., Biggs, Calif.

ALLEGED SHIPMENT: On or about December 2, 8, and 29, 1949, and January 6 and 16, April 21, and May 2, 1950, from the State of California into the State of Pennsylvania.

LABEL, IN PART: "Brewers Rice * * * 100 Lbs. Net Weight."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of rodent excreta pellet fragments, rodent hair fragments, whole insects, and insect excreta; and, Section 402 (a) (4), the product had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: April 17, 1951. A plea of nolo contendere having been entered, the court imposed a fine of $1,750.

17213. Adulteration of rice and brewers rice. U. S. v. Rice Growers Assn. of California, a corporation, and George W. Brewer and Carlton C. Chesley. Pleas of nolo contendere. Corporation fined $2,200; defendant Brewer, $550; and defendant Chesley, $275. (F. D. C. No. 30075. Sample Nos. 35549–K to 35551–K, incl., 69603–K, 72832–K, 72838–K, 79115–K, 84180–K, 84384–K, 85441–K, 85535–K.)

INFORMATION FILED: January 25, 1951, against the Rice Growers Assn. of California, a corporation, Sacramento, Calif., and George W. Brewer, general manager, and Carlton C. Chesley, production superintendent of the corporation.

ALLEGED SHIPMENT: On or about June 20 and 30, July 10, 14, 17, 21, 24, and 25, and August 4, 1950, from the State of California into the States of Ohio, Minnesota, New York, and Washington.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of beetles, beetle heads, larvae, larvae heads, fragments of beetles and larvae, and rodent hair fragments; and, Section 402 (a) (4), the product had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: March 26, 1951. Pleas of nolo contendere having been entered, the court imposed fines of $2,200 against the corporation and $550 and $275, respectively, against the individual defendants, George W. Brewer and Carlton C. Chesley.

17214. Adulteration of rice. U. S. v. 61 Bags * * *. (F. D. C. No. 29487. Sample No. 75776–K.)

LIBEL FILED: July 7, 1950, District of Minnesota.

ALLEGED SHIPMENT: On or about February 14, 1950, by Rickert, Wessanen & Laan, Inc., from New Orleans, La.

PRODUCT: 61 100-pound bags of rice at Minneapolis, Minn.

LABEL, IN PART: "Lord Rickert Rice."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and insect parts.

DISPOSITION: September 5, 1950. The shipper having appeared as claimant and consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be reconditioned or denatured for use as animal feed, under the supervision of the Food and Drug Administration. Reconditioning operations resulted in the salvage of 50½ 100-pound bags; about 50 pounds of waste material from the cleaning process was ground into animal feed.

17215. Adulteration and misbranding of Coco-Wheats cereal. U. S. v. Little Crow Milling Co. Plea of nolo contendere. Fine of $100, plus costs. (F. D. C. No. 30084. Sample No. 65406–K.)

INFORMATION FILED: March 14, 1951, Northern District of Indiana, against the Little Crow Milling Co., a corporation, Warsaw, Ind.

ALLEGED SHIPMENT: On or about May 24, 1950, from the State of Indiana into the State of Illinois.

LABEL, IN PART: "A product of Little Crow Coco-Wheats Cooks in 4 minutes The delicious Cocoa coated Hot Wheat Cereal Wheat Farina, Cocoa, Vitamin B_1, 'Sunshine' Vitamin 'D,' Calcium, Vanilla, Vanillin and Courmarin. Net Wt. 1 Lb. 8 Oz. * * * Nutritionally Improved One serving of Coco-Wheats (one dry oz.) supplies from 10 to 20% of the Vitamin B_1 and 20% of the Calcium and 50% of the 'Sunshine' Vitamin D required for minimum daily needs of adults and children."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), valuable constituents, vitamin D and calcium, had been in part omitted or abstracted from the product.

Misbranding, Section 403 (a), the label statements "One serving of Coco-Wheats (one dry oz.) supplies * * * 20% of the Calcium and 50% of the 'Sunshine' Vitamin D required for minimum daily needs of adults and children" were false and misleading since each dry ounce of the product would not supply 20 percent of the calcium and 50 percent of the vitamin D required for the minimum daily needs of adults and children.

DISPOSITION: April 11, 1951. A plea of nolo contendere having been entered, the court imposed a fine of $100, plus costs.

DAIRY PRODUCTS*

BUTTER

17216. Adulteration of butter. U. S. v. Farmers Creamery Assn. of De Smet, a corporation, and Kenneth A. Hillestad. Pleas of guilty. Each defendant fined $25. (F. D. C. No. 30052. Sample No. 85313–K.)

INFORMATION FILED: February 13, 1951, District of South Dakota, against Farmers Creamery Assn. of De Smet, a corporation, De Smet, S. Dak., and Kenneth A. Hillestad, manager of the corporation.

*See also No. 17250.

ALLEGED VIOLATION: On or about August 30, 1948, the defendants caused to be given to a firm engaged in the business of shipping butter in interstate commerce, a guaranty to the effect that no butter sold by the defendant would be adulterated or misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act.

On or about August 23, 1950, the defendant shipped and delivered to the holder of the guaranty, at Mitchell, S. Dak., a quantity of butter that was adulterated.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the food consisted in part of a filthy substance by reason of the presence of fly fragments, insect fragments, mites, manure, and rat or mouse hairs; and, Section 402 (a) (4), the food had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITON: March 16, 1951. Pleas of guilty having been entered, the court imposed a fine of $25 against each defendant.

17217. Adulteration of butter. U. S. v. Farmers Co-operative Creamery Co., a corporation. Plea of guilty. Fine, $100. (F. D. C. No. 30006. Sample No. 75775–K.)

INFORMATION FILED: January 16, 1951, District of South Dakota, against the Farmers Co-operative Creamery Co., a corporation, Canton, S. Dak.

ALLEGED VIOLATION: On or about February 15, 1949, the defendant gave to a firm engaged in the business of shipping butter in interstate commerce, at Sioux Falls, S. Dak., a guaranty to the effect that no butter sold by the defendant would be adulterated or misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act. On or about June 23, 1950, the defendant sold and delivered to the holder of the guaranty, at Sioux Falls, S. Dak., a quantity of butter that was adulterated.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of ants, fly fragments, insect fragments, manure, insect eggs, feathers, rat and mouse hairs, and sediment, and by reason of the use of filth-contaminated cream in its preparation; and, Section 402 (b) (2), a product which contained less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: January 26, 1951. A plea of guilty having been entered, the court imposed a fine of $100.

CHEESE

17218. Adulteration of Primost cheese. U. S. v. Scriver L. Charlson (S. L. Charlson). Plea of guilty. Fine of $100 on count 1; fine of $100 on count 2 suspended and defendant placed on probation for 1 year. (F. D. C. No. 29651. Sample Nos. 85234–K, 85594–K.)

INFORMATION FILED: November 29, 1950, District of Minnesota, against Scriver L. Charlson, trading as S. L. Charlson, Dennison, Minn.

ALLEGED SHIPMENT: On or about July 26 and August 3, 1950, from the State of Minnesota into the State of Iowa and North Dakota.

LABEL, IN PART: "Charlson's Home Made Primost One Pound Net Weight S. L. Charlson Dennison, Minn."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insects, insect fragments, setae, manure, thrips, and rat or mouse hairs; and, Section 402 (a) (4), the product had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: April 2, 1951. A plea of guilty having been entered, the court imposed a fine of $100 on each of the 2 counts, but suspended payment of the fine on count 2 and placed the defendant on probation for 1 year.

EGGS

17219. Adulteration and misbranding of dried eggs. U. S. v. 33 Drums, etc. (F. D. C. No. 30376. Sample Nos. 91995-K, 91996-K.)

LIBEL FILED: January 11, 1951, Southern District of New York.

ALLEGED SHIPMENT: On or about June 9, 1950, by the Seymour Packing Co., from Topeka, Kans.

PRODUCT: 146 45-pound drums of dried eggs at New York, N. Y.

LABEL, IN PART: "Dried Whole Eggs Screenings * * * Not For Human Consumption" and "Dried Whole Eggs Sifted * * * Not For Human Consumption."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), carbonaceous materials had been substituted in whole or in part for dried whole eggs; and, Section 402 (b) (4), carbonaceous materials had been added to the article and mixed and packed with it so as to reduce its quality or strength.

Misbranding, Section 403 (g) (1), the article purported to be and was represented as dried whole eggs, a food for which a definition and standard of identity had been prescribed by regulations, and it failed to conform to such definition and standard since it contained carbonaceous materials which are not provided for in such standard as an ingredient of dried whole eggs.

DISPOSITION: March 2, 1951. The Seymour Packing Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be denatured with kerosene, under the supervision of the Federal Security Agency, so that it could not be disposed of for human consumption but would be satisfactory for tanning purposes.

17220. Adulteration of frozen eggs. U. S. v. 64 Cans * * *. (F. D. C. No. 30158. Sample No. 83343-K.)

LIBEL FILED: November 24, 1950, Northern District of Illinois.

ALLEGED SHIPMENT: On or about June 26, 1950, by the Ovson Egg Co., from Kansas City, Mo.

PRODUCT: 64 30-pound cans of frozen eggs at Chicago, Ill.

LABEL, IN PART: "Special Mixed Eggs."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed eggs.

DISPOSITION: January 16, 1951. Alvin Richter, Herman Kolb, and Ida Feuerstein, doing business as Richter & Kolb, Chicago, Ill., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the purpose of segregating the fit from the unfit portion, under the supervision of the Food and Drug Administration. Segregation operations resulted in 25 cans being destroyed and 39 cans being released as passable.

FEEDS AND GRAINS

17221. Misbranding of Alfa-Zyme feed. U. S. v. Rossmoyne Processing Corp. Plea of not guilty. Tried to the Court. Verdict of guilty. Sentence suspended and corporation placed on probation for 1 year. (F. D. C. No. 27484. Sample No. 39367–K.)

INFORMATION FILED: July 6, 1949, Middle District of Pennsylvania, against the Rossmoyne Processing Corp., Camp Hill, Pa.

ALLEGED SHIPMENT: On or about January 5, 1949, from the State of Pennsylvania into the State of Kentucky.

LABEL, IN PART: "100 Pounds Net 'Alfa-Zyme Brand' Feed Made by Rossmoyne Processing Corp. Camp Hill, Pennsylvania Guaranteed Analysis Protein 9.50% Fat 1.00% Fiber 14.00% Made From: Dehydrated Alfalfa Meal, Soybean Oil Meal, Enzyme Digested Flour, Cultured with Yeast and Lactic Acid forming Bacteria."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label statement "Guaranteed Analysis Protein 9.50%" was false and misleading since the product contained less than 9.50% protein; and, Section 403 (i) (2), the product was fabricated from two or more ingredients, and the label failed to bear the common or usual name of each such ingredient since the product contained oat hulls and rice hulls, which were not declared on the label.

DISPOSITION: A plea of not guilty having been entered, the matter came on for trial before the court on January 15, 1951. On the same day, the court handed down a verdict of guilty, suspended the imposition of sentence, and placed the corporation on probation for 1 year.

17222. Adulteration and misbranding of dog food. U. S. v. 25 Cases * * *. (F. D. C. No. 29937. Sample No. 58810–K.)

LIBEL FILED: October 18, 1950, Northern District of Illinois.

ALLEGED SHIPMENT: On or about August 21, 1950, by Cousins VirDel, Inc., from South Lyon, Mich.

PRODUCT: 25 cases, each containing 48 15½-ounce cans, of dog food at La Grange, Ill.

LABEL, IN PART: "Dinner Bell Dog Rations Analysis Protein, Minimum 12.5% Fat, Minimum 2.0%."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), valuable constituents, protein and fat, had been in part omitted from the article.

Misbranding, Section 403 (a), the label designations "Protein, Minimum 12.5% Fat, Minimum 2.0%" were false and misleading as applied to an article which contained less than those amounts of protein and fat.

DISPOSITION: February 20, 1951. Default decree of condemnation and destruction.

FISH AND SHELLFISH

17223. Adulteration of frozen whiting. U. S. v. Pond Village Cold Storage Co. and John C. Worthington. Pleas of guilty. Corporation fined $500 and individual defendant $100. (F. D. C. No. 30001. Sample Nos. 72484–K, 72911–K, 76134–K, 76181–K, 76223–K, 76631–K.)

INFORMATION FILED: January 12, 1951, District of Massachusetts, against the Pond Village Cold Storage Co., a corporation, North Truro, Mass., and John C. Worthington, president and treasurer of the corporation.

ALLEGED VIOLATION: On or about April 5, 1949, the defandants gave to a firm engaged in the business of shipping fish in interstate commerce, at Boston, Mass., a guaranty to the effect that no fish sold by the defendants would be adulterated or misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act.

On or about March 3, 10, and 11, and April 28 and 29, 1950, the defendant sold and delivered to the holder of the guaranty, at Boston, Mass., quantities of frozen fish that were adulterated.

On or about March 15, 1950, the defendants shipped a quantity of adulterated frozen fish from the State of Massachusetts to the State of Illinois.

LABEL, IN PART: (Portion) "H & G Scaled Whiting Booth Fisheries Corp. Boston, Mass."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a decomposed substance by reason of the presence of decomposed fish.

DISPOSITION: February 27, 1951, Pleas of guilty having been entered, the court imposed a fine of $500 against the corporation and $100 against the individual defendant.

17224. Adulteration and misbranding of canned herring roe. U. S. v. Cape King Fisheries, Inc., and Fred Roberts. Pleas of nolo contendere. Corporation fined $100; individual defendant fined $25. (F. D. C. No. 30088. Sample No. 66848–K.)

INFORMATION FILED: March 7, 1951, District of Massachusetts, against Cape King Fisheries, Inc., a corporation, New Bedford, Mass., and Fred Roberts, general manager of the corporation.

ALLEGED SHIPMENT: On or about August 22, 1950, from the State of Massachusetts into the State of Maryland.

LABEL, IN PART: "Cape King Herring Roe Contents 15 Oz. Avd. Salt and water added Cape King Fisheries, Inc. New Bedford, Mass."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), whiting roe had been substituted in whole or in part for herring roe.

Misbranding, Section 403 (a), the label statement "Herring Roe" was false and misleading since the product consisted of whiting roe.

DISPOSITION: March 22, 1951. Pleas of nolo contendere having been entered, the court imposed a fine of $100 against the corporation and a fine of $25 against the individual.

17225. Misbranding of oysters. U. S. v. 10 Barrels * * *. (F. D. C. No. 30215. Sample No. 66867–K.)

LIBEL FILED: December 19, 1950, Southern District of Indiana; amended libel filed February 21, 1951.

ALLEGED SHIPMENT: On or about December 14, 1950, by Carol Dryden & Co., Inc., from Crisfield, Md.

PRODUCT: 10 barrels, each containing 1,536 cans, of oysters at Seymour, Ind.

LABEL, IN PART: "1 Pint Pride Of The Chesapeake Oysters—Standard."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents. (The cans contained less than 1 pint, the declared volume.)

DISPOSITION: March 16, 1951. Default decree of forfeiture and destruction.

FRUITS AND VEGETABLES

CANNED FRUIT

17226. Adulteration of canned boysenberries. U. S. v. 115 Cases * * *. (F. D. C. No. 30222. Sample Nos. 70295–K, 89754–K.)

LIBEL FILED: December 20, 1950, District of Kansas.

ALLEGED SHIPMENT: On or about July 10, 1950, from Salem, Oreg.

PRODUCT: 115 cases, each containing 24 1-pound, 4-ounce cans, of boysenberries at Topeka, Kans.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of its chemical decomposition. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: February 14, 1951. Default decree of condemnation and destruction.

17227. Misbranding of canned peaches. U. S. v. 1,300 Cases * * *. (F. D. C. No. 30346. Sample No. 92401–K.)

LIBEL FILED: December 26, 1950, Southern District of New York.

ALLEGED SHIPMENT: On or about September 1, 1950, by the Pulici Packing Co., from Los Angeles, Calif.

PRODUCT: 1,300 cases, each containing 48 8¾-ounce cans, of peaches at New York, N. Y.

LABEL, IN PART: (Can) "Premier Old Fashioned Peeled Yellow Free Sliced Peaches In Extra Heavy Syrup."

NATURE OF CHARGE: Misbranding, Section 403 (g) (2), the product purported and was represented as canned peaches, a food for which a definition and standard of identity has been prescribed by regulations, and its label failed to bear, as required by regulations, the name of the optional packing medium present since the label bore the statement "In Extra Heavy Syrup" and the product was packed in heavy sirup.

DISPOSITION: April 20, 1951. Louis Pulici, trading as the Pulici Packing Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling, under the supervision of the Food and Drug Administration.

DRIED FRUIT

17228. Misbranding of dried pitted dates. U. S. v. 11 Cases * * *. (F. D. C. No. 30391. Sample No. 4793–L.)

LIBEL FILED: On or about February 2, 1951, District of Rhode Island.

ALLEGED SHIPMENT: On or about December 12, 1950, by National Date Co., Inc., from Boston, Mass.

PRODUCT: 11 cases, each containing 24 packages, of dried pitted dates at West Warwick, R. I.

LABEL, IN PART: (Package) "Valley Farm Brand Pasteurized Pitted Dates Net Wt. 7¼ Oz."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents. (The article was short of the declared weight.)

DISPOSITION: March 27, 1951. Default decree of condemnation. The court ordered that the product be delivered to public or charitable institutions.

VEGETABLES

17229. Adulteration of canned kidney beans. U. S. v. 21 Cases * * *. F. D. C. No. 30154. Sample No. 90123–K.)

LIBEL FILED: On or about November 21, 1950, Western District of Missouri.

ALLEGED SHIPMENT: On or about September 22, 1950, by the Norfolk Packing Co., from Plattsmouth, Nebr.

PRODUCT: 21 cases, each containing 48 11-ounce cans, of kidney beans at Kansas City, Mo.

LABEL, IN PART: (Can) "Summer Girl Brand Red Kidney Beans."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects, insect parts, and rodent hairs.

DISPOSITION: On January 24, 1951, the court ordered that the product be destroyed. On or about February 7, 1951, the order was amended to provide for delivery of the product to the Municipal Farm, for use as hog feed.

17230. Misbranding of canned carrots and peas. U. S. v. 80 Cases * * *. (F. D. C. No. 30438. Sample No. 23151–L.)

LIBEL FILED: February 15, 1951, Southern District of New York.

ALLEGED SHIPMENT: On or about December 27, 1950, by Charles G. Summers, Jr., Inc., from New Freedom, Pa.

PRODUCT: 80 cases, each containing 24 1-pound, 4-ounce cans, of carrots and peas at Bronx, N. Y..

LABEL, IN PART: "Tremont Carrots and Peas."

NATURE OF CHARGE: Misbranding, Section 403 (a), the vignette which appeared on the label was false and misleading since it depicted the presence of green peas in the container, whereas many of the peas in the container were white.

Further misbranding, Section 403 (a), the label designation "Carrots and Peas" was misleading since it failed to reveal the material fact that the peas contained therein were hard and mealy and failed to meet the standard of quality for canned peas.

DISPOSITION: March 9, 1951. Default decree of condemnation. The court ordered that the product be delivered to charitable institutions.

17231. Adulteration of canned black-eyed peas. U. S. v. 686 Cases * * *. (F. D. C. No. 30185. Sample No. 78016–K.)

LIBEL FILED: December 4, 1950, Western District of Tennessee.

ALLEGED SHIPMENT: Between the approximate dates of July 26 and October 5, 1950, by the Thomas & Drake Canning Co., from Haskell, Okla.

PRODUCT: 686 cases, each containing 24 1-pound, 4-ounce cans, of black-eyed peas at Memphis, Tenn.

LABEL, IN PART: (Can) "Black Eye Peas Lahoma."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of worms.

DISPOSITION: January 24, 1951. Default decree of condemnation. The court ordered that the product be delivered to a public institution, for use as hog feed.

17232. Adulteration of dried black-eyed peas. U. S. v. 25 Bags * * * (and 2 other seizure actions). (F. D. C. Nos. 30275 to 30277, incl. Sample Nos. 80130–K, 80132–K, 80133–K.)

LIBEL FILED: November 17, 1950, District of Massachusetts.

ALLEGED SHIPMENT: On or about August 22, 1950, by the Potts-Wilson Co., from Kansas City, Mo.

PRODUCT: 44 100-pound bags of dried black-eyed peas at Boston, Mass.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects.

DISPOSITION: January 9, 1951. The libel actions having been consolidated for purpose of decree, and Aileen Quirk & Sons, Inc., North Kansas City, Mo., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation of the unfit portion, under the supervision of the Federal Security Agency. 426 pounds of the product were found unfit and were destroyed.

17233. Adulteration of canned spinach. U. S. v. 85 Cases * * * (and 6 other seizure actions). (F. D. C. Nos. 30457, 30539, 30540, 30635, 30648, 30799, 30829. Sample Nos. 802–L, 9235–L, 10756–L, 10757–L, 19221–L, 19500–L, 21291–L, 31272–L.)

LIBELS FILED: Between February 7 and March 6, 1951, Eastern District of Missouri, Eastern District of Louisiana, Southern District of Florida, Southern District of Indiana, District of Minnesota, Western District of Wisconsin, and Northern District of Illinois.

ALLEGED SHIPMENT: Between November 13, 1950, and January 23, 1951, by the Van Buren Canning Co., from Van Buren, Ark.

PRODUCT: Spinach. 458 cases, each containing 24 1-pound, 2-ounce cans; 835 cases, each containing 24 15-ounce cans; and 17 cases, each containing 48 10-ounce cans, at St. Louis, Mo.; New Orleans, La.; Miami, Fla.; Indianapolis, Ind.; Minneapolis, Minn.; Eau Claire, Wis.; and Chicago, Ill.

LABEL, IN PART: "Dark Green Spinach," "Gooding's Spinach," "Ko-We-Ba Fancy Spinach," "Future Spinach," and "June Addams Brand Spinach."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of worms.

DISPOSITION: Between the dates of March 6 and May 1, 1951. Default decrees of condemnation. The courts in all instances, with the exception of the seizure at Minneapolis, ordered the product destroyed, and that the portion of the product seized in Minneapolis be destroyed or denatured and disposed of as animal feed.

17234. Adulteration and misbranding of canned spinach. U. S. v. 165 Cases * * * (and 23 other seizure actions). (F. D. C. Nos. 30501, 30510, 30517 to 30519, incl., 30523, 30524, 30534 to 30536, incl., 30547, 30645, 30646, 30654, 30657, 30658, 30665, 30669, 30676, 30708, 30763, 30764, 30818, 30830. Sample Nos. 4832–L, 4833–L, 5258–L, 5259–L, 5269–L, 6864–L, 7053–L, 7061–L, 7064–L, 7067–L, 9951–L to 9954–L, incl., 15052–L, 15053–L, 15757–L, 16163–L, 16164–L, 30760–L, 30954–L, 31263–L, 31358–L, 31493–L to 31498–L, incl., 31862–L, 31864–L, 31866–L, 32154–L to 32157–L, incl., 32166–L, 32169–L.)

LIBELS FILED: Between February 1 and March 15, 1951, Southern District of Illinois, Eastern and Western Districts of Missouri, Eastern District of Wisconsin, Western District of Pennsylvania, Northern District of Ohio, District of Nebraska, Western District of Oklahoma, District of Maine, and District of Massachusetts.

ALLEGED SHIPMENT: Between July 19, 1950, and January 23, 1951, by the Russellville Canning Co., from Russellville, Ark.

PRODUCT: 5,820 cases of canned spinach at Bloomington, Quincy, and Granite City, Ill.; St. Louis and Kansas City, Mo.; Milwaukee, Wis.; Pittsburgh and Beaver Falls, Pa.; Youngstown, Ohio; Omaha, Nebr.; Enid, Okla.; Augusta, Waterville, and Portland, Maine; and Brighton, Mass.

A portion of the cases contained 6 cans in a 6-pound, 2-ounce size; a portion contained 24 cans in 1-pound, 2-ounce, and 1-pound, 11-ounce, sizes; and other cases contained 48 cans in a 10-ounce size.

LABEL, IN PART: (Portions) "Camel Garden [or "Red Robe," "Russellville Brand," "White Ribbon," "Haase's Brand Early Garden," "Like Fresh Brand Topmost," "Topmost Brand," "American Lady Brand," "Roundy's White Label," "My-Te-Good Brand," "Arkoma Brand," "Brimfull Brand," "Nation Wide New-Process," "G. W. Brand," "Fort Western Brand," "Nation Wide," or "Elm Farm"] Spinach."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of worms.

Misbranding, Section 403 (e) (2), the article in one of the St. Louis lots failed to bear a label containing an accurate statement of the quantity of the contents since the label statement "Contents 1 Lb. 2 Ozs." was inaccurate. (The article in this lot was packed in No. 10 cans holding approximately 6 pounds and 2 ounces.)

DISPOSITION: Between February 28 and May 7, 1951. Default decrees of condemnation. The courts ordered that certain lots of the product be delivered to public institutions, for use as animal feed, and that the other lots be destroyed.

TOMATOES AND TOMATO PRODUCTS

17235. Misbranding of canned tomatoes. U. S. v. 804 Cases * * *. (F. D. C. No. 30462. Sample No. 85338–K.)

LIBEL FILED: On or about December 28, 1950, Western District of Wisconsin.

ALLEGED SHIPMENT: On or about September 22, 1950, by the Jaqua Co., from Ansonia, Ohio.

PRODUCT: 804 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Wausau, Wis.

LABEL, IN PART: "K Quality Brand Tomatoes."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned tomatoes since it contained excessive peel, and its label failed to bear a statement that it fell below the standard.

DISPOSITION: February 15, 1951. The Jaqua Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Food and Drug Administration.

17236. Misbranding of canned tomatoes. U. S. v. 275 Cases * * *. (F. D. C. No. 30132. Sample No. 67454–K.)

LIBEL FILED: On or about November 21, 1950, Western District of Virginia.

ALLEGED SHIPMENT: On or about August 30, September 15, and October 6, 1950, by Insley & Mitchell, from Salisbury, Md.

PRODUCT: 275 cases, each containing 24 1-pound, 12-ounce cans, of tomatoes at Charlottesville, Va.

LABEL, IN PART: "I And M Brand Tomatoes."

NATURE OF CHARGE: Adulteration, Section 403 (h) (1), the product fell below the standard of quality for canned tomatoes since it contained excessive peel, and its label failed to bear a statement that it fell below such standard.

DISPOSITION: January 2, 1951. Insley & Mitchell, a partnership, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. The product was relabeled.

17237. Adulteration of tomato catsup and tomato puree. U. S. v. 54 Cases, etc. (F. D. C. No. 30397. Sample Nos. 95481–K, 95482–K.)

LIBEL FILED: January 25, 1951, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about October 2, 1950, by the C & E Canners, from Folsom, N. J.

PRODUCT: 54 cases, each containing 6 6-pound, 8-ounce cans, of tomato catsup, and 36 cases, each containing 24 1-pound, 12-ounce cans, of tomato puree at Allentown, Pa.

LABEL, IN PART: (Cans) "Lehigh Valley Brand Tomato Catsup" and "Eco Brand Tomato Puree."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of fly eggs and maggots, and of decomposed substances by reason of the presence of decomposed tomato material.

DISPOSITION: April 4, 1951. Default decree of condemnation and destruction.

17238. Adulteration of tomato juice. U. S. v. 24 Cases * * *. (F. D. C. No. 29975. Sample No. 48851–K.)

LIBEL FILED: November 1, 1950, Middle District of Pennsylvania.

ALLEGED SHIPMENT: On or about September 21, 1950, by Perfection Canning Co., Inc., from Newark, N. Y.

PRODUCT: 24 cases, each containing 12 1-quart, 14-ounce cans, of tomato juice at Scranton, Pa.

LABEL, IN PART: "Perfection * * * Tomato Juice."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material, and of a filthy substance by reason of the presence of fly eggs and maggots.

DISPOSITION: March 8, 1951. Default decree of condemnation and destruction.

NUTS

17239. Adulteration of pecans. U. S. v. Aaronson-Funck Co., a partnership, and Isadore Aaronson and Charles E. Funck. Pleas of guilty. Isadore Aaronson and Charles E. Funck each fined $200. Partnership fined $200; fine suspended. (F. D. C. No. 29653. Sample Nos. 43715–K, 72036–K.)

INFORMATION FILED: February 19, 1951, Southern District of Ohio, against the Aaronson-Funck Co., a partnership, Cincinnati, Ohio, and Isadore Aaronson and Charles E. Funck, partners.

ALLEGED VIOLATION: On or about December 10, 1949, the defendants received in interstate commerce, at Cincinnati, Ohio, a number of bags of pecans which were adulterated; and on or about December 22 and 23, 1949, the defendants delivered for pay, quantities of the adulterated pecans to consignees in Cincinnati and Columbus, Ohio.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a decomposed substance by reason of the presence of decomposed nuts, and it was otherwise unfit for food by reason of the presence of empty shells and shriveled nuts.

DISPOSITION: April 18, 1951. Pleas of guilty having been entered, the court imposed a fine of $200 against each individual defendant and suspended a $200 fine against the partnership.

17240. Adulteration of pecan halves. U. S. v. 25 Cases * * *. (F. D. C. No. 30367. Sample No. 80594–K.)

LIBEL FILED: December 29, 1950, District of Massachusetts.

ALLEGED SHIPMENT: On or about December 5, 1950, by the Gold Kist Pecan Growers, from Waycross, Ga.

PRODUCT: 25 30-pound cases of pecan halves at Boston, Mass.

LABEL, IN PART: (Case) "Amber Halves Gold Kist Pecan Growers."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product was unfit for food by reason of the presence of rancid nuts.

DISPOSITION: January 19, 1951. The Gold Kist Pecan Growers, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reconditioning, under the supervision of the Food and Drug Administration. Salvage operations were unsuccessful, and the product was converted into animal feed.

17241. Adulteration of brazil nuts. U. S. v. 75 Bags * * *. (F. D. C. No. 30133. Sample No. 43725–K.)

LIBEL FILED: November 14, 1950, Southern District of Ohio.

ALLEGED SHIPMENT: On or about October 11, 1950, by Wm. A. Higgins Co., Inc., from New York, N. Y.

PRODUCT: 75 bags of brazil nuts at Cincinnati, Ohio.

LABEL, IN PART: "Holly Brazil Nuts."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of moldy and decomposed nuts, and it was otherwise unfit for food by reason of the presence of rancid and shriveled nuts and empty shells.

DISPOSITION: December 6, 1950. Wm. A. Higgins Co., Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation of the fit from the unfit portion, under the supervision of the Food and Drug Administration. Salvaging operations resulted in the release of 6,700 pounds of brazil nuts and the destruction of 417 pounds which were unfit.

17242. Adulteration of brazil nuts. U. S. v. 128 Cartons * * *. (F. D. C. No. 30242. Sample Nos. 73043–K, 73044–K.)

LIBEL FILED: November 9, 1950, District of New Jersey.

ALLEGED SHIPMENT: On or about October 13 and 31, 1950, by Baker & Williams, Inc., from New York, N. Y.

PRODUCT: 128 cartons, each containing 24 1-pound bags, of brazil nuts at Jersey City, N. J.

LABEL, IN PART: (Bag) "Cliff House Selected Hand Picked Brazil Nuts."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of moldy nuts, and it was otherwise unfit for food by reason of the presence of rancid nuts.

DISPOSITION: December 12, 1950. The Biddle Purchasing Co., New York, N. Y., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond, conditioned that the nuts be cracked and that the unfit be segregated and destroyed, under the supervision of the Food and Drug Administration. Of the total amount seized, 3,072 pounds, 715 pounds were found to be good and were released.

17243. Adulteration of unshelled almonds. U. S. v. 5 Bags * * *. (F. D. C. No. 30266. Sample No. 93109–K.)

LIBEL FILED: On or about November 27, 1950, Northern District of Georgia.

ALLEGED SHIPMENT: On or about October 19, 1949, from Sacramento, Calif.

PRODUCT: 5 25-pound bags of unshelled almonds at Atlanta, Ga.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: December 20, 1950. Default decree of condemnation. The court ordered that the nuts be delivered to a Federal institution, conditioned that they be cracked and that the insect-infested portion be used for animal feed and that the good portion be used for human food.

SPICES, FLAVORS, AND SEASONING MATERIALS

17244. Adulteration of ground black pepper. U. S. v. Lewis I. Temkin (LaSalle Mfg. Co.). Plea of guilty. Fine of $500, plus costs. (F. D. C. No. 29631. Sample Nos. 1691–K, 63695–K.)

INDICTMENT RETURNED: December 5, 1950, Northern District of Illinois, against Lewis I. Temkin, trading as the LaSalle Mfg. Co., Chicago, Ill.

ALLEGED SHIPMENT: On or about May 5 and 26, 1949, from the State of Illinois into the State of Georgia.

LABEL, IN PART: "Florence Nightingale * * * Ground Black Pepper Packed By LaSalle Mfg. Co. Chicago, Ill."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), soybean meal and buckwheat hulls had been substituted in part for ground black pepper.

DISPOSITION: April 11, 1951. A plea of guilty having been entered, the court imposed a fine of $500, plus costs.

17245. Adulteration of chili powder. U. S. v. Christopher L. Prats (C. L. Prats Chili Co.). Plea of nolo contendere. Fine, $200. (F. D. C. No. 29145. Sample No. 71273–K.)

INFORMATION FILED: April 20, 1950, District of Arizona, against Christopher L. Prats, trading as the C. L. Prats Chili Co., Douglas, Ariz.

ALLEGED SHIPMENT: On or about December 3, 1949, from the State of Arizona into the State of California.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs and insect fragments.

DISPOSITION: March 19, 1951. A plea of nolo contendere having been entered, the court fined the defendant $200.

17246. Adulteration of Spanish thyme. U. S. v. 29 Bags * * *. (F. D. C. No. 30490. Sample No. 11851–L.)

LIBEL FILED: January 22, 1951, Southern District of Ohio.

ALLEGED SHIPMENT: On or about May 19, 1950, from New York, N. Y.

PRODUCT: 29 bags, each containing 85 pounds, of Spanish thyme at Cincinnati, Ohio.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects, insect fragments, and insect excreta. It was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: March 12, 1951. Default decree of condemnation and destruction.

17247. Adulteration of coriander seed. U. S. v. 13 Bags * * *. (F. D. C. No. 30489. Sample No. 28091–L.)

LIBEL FILED: January 25, 1951, Northern District of California.

ALLEGED SHIPMENT: The product was imported from Argentina on or about July 28, 1950.

PRODUCT: 13 bags, each containing 70 pounds, of coriander seed at San Francisco, Calif.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta. It was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: March 5, 1951. Default decree of condemnation and destruction.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE

17248. Adulteration and misbranding of Calvital capsules. U. S. v. Calvital Co., Inc., and Alexander S. Race. Pleas of guilty. Corporation fined $200. Individual fined $4; fine remitted. (F. D. C. No. 29476. Sample No. 63068–K.)

INFORMATION FILED: January 12, 1951, Southern District of New York, against the Calvital Co., Inc., Mount Vernon, N. Y., and Alexander S. Race, president of the corporation.

ALLEGED SHIPMENT: On or about October 5, 1949, from the State of New York into the State of Massachusetts.

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), valuable constituents, namely, vitamin A, vitamin B_1, and vitamin C, had been in part omitted and abstracted from the article.

Misbranding, Section 403 (a), certain statements in the labeling of the article were false and misleading since they represented and suggested that each capsule of the article contained 2,000 U. S. P. units of vitamin A, 1 milligram of vitamin B_1, and 20 milligrams of vitamin C, and that two capsules of the article contained approximately 100 percent of the minimum daily requirements for vitamin A, 200 percent of the minimum daily requirements for vitamin B_1, and 133 percent of the minimum daily requirements for vitamin C. The article contained less vitamin A, vitamin B_1, and vitamin C than represented. Further misbranding, Section 403 (j), the article purported to be and was represented for special dietary uses by man by reason of its vitamin and mineral properties, and its label did not bear a statement of the proportions of the minimum daily requirements for calcium, phosphorus, and iron which would be supplied by the article when consumed in a specified quantity during a period of one day.

The information alleged also that another product, namely, Succidol capsules, was adulterated and misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 3373.

DISPOSITION: February 14, 1951. Pleas of guilty having been entered, the court imposed a fine of $200 against the corporation and a fine of $4 against the individual and remitted the individual's fine.

17249. Adulteration and misbranding of Pro-Dyne oral tablets, Pro-Dyne oral capsules, Red-Zyne tablets, and Red-Zyne capsules. U. S. v. 89,380 Tablets, etc. (F. D. C. No. 29796. Sample Nos. 69429–K, 69430–K.)

LIBEL FILED: October 9, 1950, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about May 2, June 24, and August 16, 1950, by Food Essentials, Inc., from Chicago, Ill.

PRODUCT: 89,380 Pro-Dyne oral tablets; 5 dozen 60-tablet bottles, 5½ dozen 120-tablet bottles, and 5 dozen 240-tablet bottles of Red-Zyne tablets; 60,380 Pro-Dyne oral capsules; 6½ dozen 30-capsule bottles, 3½ dozen 60-capsule bottles, and 2 dozen 120-capsule bottles of Red-Zyne capsules at Duquesne, Pa., in possession of the Royal Pharmacal Corp.

RESULTS OF INVESTIGATION: The products were shipped in drums under the names of Pro-Dyne oral tablets and Pro-Dyne oral capsules, and portions had been repackaged after shipment under the names of Red-Zyne tablets and Red-Zyne capsules.

LABEL, IN PART: (Drums, when shipped) "Pro-Dyne Oral Tablets A Dietary Supplement Containing B_{12} with other A. P. F. Factors from fermentation products B-Complex Vitamins and Minerals * * * Directions: As a dietary supplement Two Tablets 3 times a day * * * Each Pro-Dyne Tablet Supplies: * * * .2 mg. Boron (from Sod. Borate)" and "Pro-Dyne Oral Capsules A Dietary Supplement Containing B_{12} with other A. P. F. Factors from fermentation products B-Complex Vitamins and Minerals * * * Directions: As a dietary supplement One Capsule 3 times a day * * * Each Pro-Dyne Capsule Supplies * * * .4 mg. Boron (from Sod. Borate)."

(Bottles, repackaged from drums) "Red-Zyne Tablets A Dietary Supplement Containing the New Red Vitamin B_{12} with other A. P. F. Factors B-Complex Vitamins and Essential Minerals * * * Directions: Two Tablets 3 times a days * * * Each Red-Zyne Tablet Supplies: * * * .2 mg. Boron (from Sod. Borate)" and "Red-Zyne Capsules A Dietary Supplement Containing the New Red Vitamin B_{12} with other A. P. F. Factors B-Complex Vitamins and Essential Minerals * * * Directions: As a dietary supplement One Capsule Three times a day * * * Each Red-Zyne Capsule Supplies: * * * .4 mg. Boron (from Sod. Borate)."

NATURE OF CHARGE: Adulteration, Section 402 (a) (2), the articles contained an added poisonous and deleterious substance, sodium borate, which was unsafe within the meaning of the law since it is a substance not required in the production of the articles and could have been avoided by good manufacturing practice.

Misbranding, Section 403 (a), certain statements on the labels of the drums and bottles were misleading. These statements represented and suggested that the articles were of special dietary value primarily by reason of their vitamin B_{12} content, and that other constituents enumerated on the labels were likely to be of some nutritional value, whereas the special dietary value of the articles was due primarily to ingredients other than vitamin B_{12}, and the other constituents enumerated on the labels were of no nutritional value.

The articles were adulterated and misbranded in the above respects when introduced into, while in, and while held for sale after shipment in, interstate commerce.

The articles were alleged also to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices.

DISPOSITION: January 31, 1951. Default decree of condemnation and destruction.

17250. Adulteration and misbranding of filled milk. U. S. v. 236 Cases * * *. (F. D. C. No. 29732. Sample No. 77780–K.)

LIBEL FILED: On or about September 21, 1950, Western District of Missouri.

ALLEGED SHIPMENT: On or about August 11, 1950, by the Ashley Milk Co., from Nashville, Ill.

PRODUCT: 236 cases, each containing 48 14½-ounce cans, of filled milk at Linn, Mo.

LABEL, IN PART: "Rich-Whip * * * Wholesome Food Product Composition Milk Solids 20% Fat 6% * * * Approximate Analysis * * * Fat 6.00% Vitamin Content 2,000 U. S. P. units of Vitamin A, 400 U. S. P. units of Vitamin D Some Vitamins B and G" and "Hum * * * A Mixture of evaporated skimmed milk and Hydrogenated Vegetable Oils * * * Composition Milk Solids 20%, Fat 6% * * * Approximate Analysis 2,000 U. S. P. units of Vitamin A, 400 U. S. P. units of Vitamin D Some Vitamins B and G."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, fat, had been in part omitted from the article.

Misbranding, Section 403 (a), the label statements "Fat 6% * * * This product complies in all respects with the Federal Food and Drugs Act of June 25, 1939, and is neither adulterated nor misbranded under the provisions thereof" were false and misleading as applied to an article which contained less than 6 percent fat and was both adulterated and misbranded under the Federal Food, Drug, and Cosmetic Act; Section 403 (i) (2), the article was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient since it failed to reveal the source of the added vitamins A and D; and, Section 403 (j), the article purported to be and was represented as a food for special dietary uses by reason of its vitamin and mineral content, and its label failed to bear as required by regulations a statement of the proportion of the minimum daily requirement of vitamins A, B, D, and G furnished by a specific quantity of the product when consumed during a period of one day.

DISPOSITION: November 15, 1950. Default decree of destruction.

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[1] (17221) Prosecution contested.

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FEDERAL SECURITY AGENCY

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

17251–17300

FOODS

The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Federal Security Agency. Published by direction of the Federal Security Administrator.

CHARLES W. CRAWFORD, *Commissioner of Food and Drugs.*

WASHINGTON, D. C., *September 10, 1951.*

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CANDY, SIRUP, AND SUGAR

CANDY

17251. Adulteration of candy. U. S. v. The Euclid Candy Co. of Illinois, Inc., and Walter F. Eggert. Pleas of guilty. Corporation fined $800; individual fined $200. (F. D. C. No. 30086. Sample Nos. 43367–K, 59038–K, 77571–K, 84572–K, 85250–K, 85256–K, 85257–K, 88614–K.)

INFORMATION FILED: April 3, 1951, Northern District of Illinois, against Euclid Candy Co. of Illinois, Inc., Chicago, Ill., and Walter F. Eggert, secretary of the corporation.

ALLEGED SHIPMENT: On or about September 29 and October 2 and 3, 1950, from the State of Illinois into the States of Michigan, Wisconsin, Missouri, Indiana, Iowa, and Colorado.

LABEL, IN PART: "Euclid's Net Weight 2½ Oz. Jumbo Candy Bar."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insects, insect fragments, and rodent hairs; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: April 30, 1951. Pleas of guilty having been entered, the court imposed a fine of $800 against the corporation and $200 against the individual defendant.

17252. Adulteration of candy. U. S. v. 179 Cases * * *. (F. D. C. No. 30218. Sample No. 69675–K.)

LIBEL FILED: December 29, 1950, Northern District of Illinois.

ALLEGED SHIPMENT: On or about December 5, 1950, by Happiness Candy Stores, Inc., from Buffalo, N. Y.

PRODUCT: 179 cases, each containing 12 boxes, of peppermint cream patties at Chicago, Ill.

LABEL, IN PART: "24 Count Wt. 1¾ Lbs. Curtiss Peppermint Cream Pattie."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and rodent hair fragments; and, Section 402 (a) (4), the article had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: April 11, 1951. Default decree of condemnation and destruction.

17253. Misbranding of candy. U. S. v. 5 Cases, etc. (F. D. C. No. 30181. Sample Nos. 90405–K, 90406–K.

LIBEL FILED: December 5, 1950, Western District of Washington.

ALLEGED SHIPMENT: On or about November 3, 1950, by the Crouch Candy Co., from Bend, Oreg.

PRODUCT: 8 11/12 cases, each containing 12 boxes, of candy at Seattle, Wash.

LABEL, IN PART: "24 Assorted Suckers 5 cents" and "24 Apple Suckers 5 cents."

NATURE OF CHARGE: Misbranding, Sections 403 (e) (1) and (2), (both lots) the article failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the

quantity of the contents; Section 403 (i) (2), the article was fabricated from two or more ingredients, and the label failed to bear the common or usual name of each such ingredient; and, Section 403 (k), the article contained artificial coloring and flavoring, and it failed to bear labeling stating that fact.

Further misbranding, Section 403 (a), (apple suckers) the name "Apple" was misleading as applied to an article containing artificial apple flavor and no apple.

DISPOSITION: April 30, 1951. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution.

SIRUP

17254. Adulteration and misbranding of sorghum sirup. U. S. v. 100 Cases * * *. (F. D. C. No. 30219. Sample No. 84879–K.)

LIBEL FILED: On or about December 18, 1950, Southern District of Indiana.

ALLEGED SHIPMENT: On or about October 26 and November 16, 1950, by C. H. Owen, from Joplin, Mo.

PRODUCT: 100 cases, each containing 12 4½-pound cans, of sorghum sirup at Evansville, Ind.

LABEL, IN PART: "Sorghum Made of Cane Products."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a mixture of sorghum, glucose, and sugar had been substituted in whole or in part for sorghum.

Misbranding, Section 403 (a), the label designation "Sorghum Made of Cane Products" was false and misleading as applied to an article which was a mixture of sorghum, glucose, and sugar.

DISPOSITION: March 21, 1951. The Henry Bentley Product Co., Evansville, Ind., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling, under the supervision of the Food and Drug Administration.

17255. Adulteration and misbranding of sorghum sirup. U. S. v. 55 Tins * * *. (F. D. C. Nos. 30553, 30554. Sample Nos. 15958–L, 15959–L.)

LIBEL FILED: February 13, 1951, Western District of Oklahoma.

ALLEGED SHIPMENT: On or about November 30, 1950, and January 3, 1951, from Jefferson, Tex.

PRODUCT: Sorghum sirup. 55 4½-pound tins; 128 cases, each containing 12 4-pound tins; and 28 cases, each containing 6 8-pound tins, at Oklahoma City, Okla.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a mixture of sorghum, glucose, and sugar had been substituted in whole or in part for sorghum.

Misbranding, Section 403 (a), the label statement "Sorghum Made of Cane Products" was false and misleading as applied to an article which was a mixture of sorghum, glucose, and sugar.

The article was adulterated and misbranded in the above respects while held for sale after shipment in interstate commerce.

DISPOSITION: March 6, 1951. Clyde J. Gentry, Jefferson, Tex., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling, under the supervision of the Food and Drug Administration.

SUGAR

17256. Adulteration of sugar. U. S. v. 592 Bags * * *. (F. D. C. No. 30175. Sample No. 75067–K.)

LIBEL FILED: November 28, 1950, Western District of Texas.

ALLEGED SHIPMENT: On or about August 19, 1950, from Manteca, Calif.

PRODUCT: 592 bags, each containing 100 pounds, of sugar at El Paso, Tex., in possession of the El Paso Moving & Storage Co.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: January 16, 1951. The Spreckels Sugar Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation of the contaminated portion and its re-refining, under the supervision of the Food and Drug Administration. Of 49,200 pounds, the total amount of sugar seized, it was necessary to re-refine 14,300 pounds. This portion was melted, purified, and filtered several times and was released as good.

17257. Adulteration of sugar. U. S. v. 16 Bags * * *. (F. D. C. No. 30428. Sample No. 25214–L.)

LIBEL FILED: On or about February 7, 1951, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about December 17, 1950, from Ponce, P. R.

PRODUCT: 16 100-pound bags of sugar at Philadelphia, Pa. The product had been damaged in transit by contamination with machine oil.

LABEL, IN PART: "Snow White Pure Cane Sugar."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product was unfit for food by reason of contamination with machine oil.

DISPOSITION: May 14, 1951. Default decree of condemnation and destruction.

17258. Adulteration of corn sugar. U. S. v. 180 Bags * * *. (F. D. C. No. 30188. Sample No. 94464–K.)

LIBEL FILED: December 5, 1950, Eastern District of Louisiana.

ALLEGED SHIPMENTS: On or about October 30, 1950, from Chicago, Ill.

PRODUCT: 180 100-pound bags of corn sugar at New Orleans, La.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance (the article was moldy and fermenting). The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: March 7, 1951. Default decree of condemnation and destruction.

CEREALS AND CEREAL PRODUCTS

BAKERY PRODUCTS

17259. Adulteration and misbranding of bread. U. S. v. James Francis Frost (Frost Baking Co.). Plea of nolo contendere. Fine, $400. (F. D. C. No. 30078. Sample Nos. 88310–K, 88311–K, 88316–K, 88317–K.)

INFORMATION FILED: March 1, 1951, Western District of Texas, against James Francis Frost, trading as the Frost Baking Co., Monahans, Tex.

ALLEGED SHIPMENT: On or about October 2 and 4, 1950, from the State of Texas into the State of New Mexico.

LABEL, IN PART: "Frost's Bread ["Wt. 1 Lb." or "Wt. 1½ Lb."] Frost's Baking Co. Monahans, Texas."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insect fragments, insect legs, and mites; and, Section 402 (a) (4), the product had been prepared under insanitary conditions whereby it may have become contaminated with filth.

Misbranding, Section 403 (e) (2), the product in 3 of the 4 shipments failed to bear a label containing an accurate statement of the quantity of the contents in that the loaves of bread weighed less than 1 pound and 1½ pounds, the declared weight.

DISPOSITION: April 12, 1951. A plea of nolo contendere having been entered, the court imposed a fine of $400.

17260. Adulteration of bread and doughnuts. U. S. v. McArthur's Quality Bakery, a partnership, and Andrew O. McArthur. Pleas of guilty. Fine, $600. (F. D. C. No. 30093. Sample Nos. 67772–K, 67773–K, 67775–K.)

INFORMATION FILED: April 13, 1951, District of Utah, against McArthur's Quality Bakery, a partnership, St. George, Utah, and Andrew O. McArthur, a partner.

ALLEGED SHIPMENT: On or about September 27, 1950, from the State of Utah into the State of Nevada.

LABEL, IN PART: "McArthur's Enriched Quality Bread 1 Lb. Quality Bakery St. George, Utah Enriched with Vitamins and Iron. One-Half pound (about 8 slices) of this bread supplies you with at least the following amounts or percentages of your minimum daily requirement for these essential food substances: Thiamine (Vitamin B_1) 55%; Riboflavin (Vitamin B_2) 17.5%; Niacin (Another B Vitamin) 5 milligrams; Iron 40%. Sodium Propionate added to retard spoilage," "Wheat Bread," and "McArthur's Doughnuts."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in part of filthy substances by reason of the presence of insect fragments, rodent hair fragments, larvae, and larval head capsules; Section 402 (a) (4), they had been prepared under insanitary conditions whereby they may have become contaminated with filth; and, Section 402 (b) (1), (enriched bread) valuable constituents, thiamine, riboflavin, and niacin, had been in whole or in part omitted.

Misbranding, Section 403 (a) (enriched bread), the label statements "One-Half pound (about 8 slices) of this bread supplies you with at least the following amounts or percentages of your minimum daily requirement for these essential food substances: Thiamine (Vitamin B_1) 55%; Riboflavin (Vitamin B_2) 17.5%; Niacin (Another B Vitamin) 5 milligrams" were false and misleading since one-half pound did not contain 55 percent of the minimum daily requirement of thiamine, 17.5 percent of the minimum daily requirement of riboflavin, and 5 milligrams of niacin.

DISPOSITION: April 20, 1951. Pleas of guilty having been entered, the court imposed a total fine of $600 against the defendants.

FLOUR

17261. Adulteration of flour. U. S. v. 40 Bags, etc. (F. D. C. No. 30853. Sample Nos. 4761–L, 4762–L.)

LIBEL FILED: March 16, 1951, District of Massachusetts.

ALLEGED SHIPMENT: On or about October 12 and December 13, 1950, from Winona, Minn, and Salina, Kans.

PRODUCT: 80 100-pound bags of flour at Lawrence, Mass., in possession of Pappy's Bakery.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: April 4, 1951. Gaetano Pappalardo, Lawrence, Mass., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation and denaturing of the unfit portion, under the supervision of the Federal Security Agency. A total of 54 bags of the product was found to be unfit and was denatured for use as animal feed.

17262. Adulteration of flour. U. S. v. 26 Bags * * *. (F. D. C. No. 30173. Sample No. 85957–K.)

LIBEL FILED: On or about December 1, 1950, Eastern District of Louisiana.

ALLEGED SHIPMENT: On or about October 11, 1950, from Memphis, Tenn.

PRODUCT: 26 100-pound bags of flour at New Orleans, La.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects and insect webbing. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: March 7, 1951. Default decree of condemnation and destruction.

17263. Adulteration and misbranding of enriched flour. U. S. v. Virgil H. Burchett (Pembroke Roller Mills). Plea of guilty. Fine, $200. Defendant placed on probation for 1 year. (F. D. C. No. 30004. Sample Nos. 52276–K to 52278–K, incl., 52927–K.)

INFORMATION FILED: December 15, 1950, Western District of Kentucky, against Virgil H. Burchett, trading as the Pembroke Roller Mills, Pembroke, Ky.

ALLEGED SHIPMENT: Within the period from on or about October 4, 1949, to May 2, 1950, from the State of Kentucky into the State of Tennessee.

LABEL, IN PART: "Pembroke Roller Mills Star of Kentucky Best Patent Flour Bleached Calcium Phosphate Added V. H. Burchett, Prop. Pembroke, Ky."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), valuable constituents, thiamine (vitamin B_1), riboflavin, and iron, had been in part omitted from the product.

Misbranding, Section 403 (g) (1), the product purported to be, and was represented as, enriched flour, and it failed to conform to the definition and standard of identity for enriched flour since it contained less than 2.0 milli-

grams of thiamine (vitamin B_1), less than 1.2 milligrams of riboflavin, and less than 13.0 milligrams of iron, per pound; and, Section 403 (a), the label statements "Enriched 8 ounces of this Enriched Flour contain not less than the following proportions of the minimum daily requirements of Vitamin B_1 100%, Riboflavin 30%, Iron 65%" were false and misleading in that 8 ounces of the product contained less than 100% of the minimum daily requirements for vitamin B_1, less than 30% of the minimum daily requirements for riboflavin, and less than 65% of the minimum daily requirements for iron.

DISPOSITION: April 16, 1951. A plea of guilty having been entered, the court imposed a fine of $200 and placed the defendant on probation of 1 year.

MISCELLANEOUS CEREALS

17264. Adulteration of shelled corn. U. S. v. 277,200 Pounds * * *. (F. D. C. No. 29948. Sample Nos. 69247–K to 69249–K, incl.)

LIBEL FILED: October 20, 1950, Western District of New York.

ALLEGED SHIPMENT: On or about October 2, 1950, by the Stratton Grain Co., from Chicago, Ill.

PRODUCT: 277,200 pounds of shelled corn at Buffalo, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (2), the article contained an added poisonous and deleterious substance, namely, tetramethylthiuramdisulfide, which is unsafe within the meaning of the Act since it is a substance not required in the production of the article and can be avoided by good manufacturing practice.

DISPOSITION: March 5, 1951. Clarke Hybrid Corn Co., Inc., Conrad, Iowa, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency. 27,067 pounds of the product were found unfit and were destroyed, and the remainder of the product was labeled to show that it had been treated with "Arasan" and was not for human consumption.

17265. Adulteration of unpopped popcorn. U. S. v. 96 Unlabeled Bags * * *. (F. D. C. No. 29529. Sample No. 60591–K.)

LIBEL FILED: August 28, 1950, Northern District of Illinois.

ALLEGED SHIPMENT: On or about July 31, 1950, by R. S. Doty, from Pendleton, Ind.

PRODUCT: 96 unlabeled bags, each containing 100 pounds, of unpopped popcorn at Chicago, Ill.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and insect-damaged kernels.

DISPOSITION: September 6, 1950. A. B. C. Popcorn Co., Inc., Chicago, Ill., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for reconditioning, under the supervision of the Food and Drug Administration. After unsuccessful attempts to eliminate the insects and insect-damaged kernels from the product, the court entered an order on February 28, 1951, directing that the product be destroyed or denatured for use as animal feed. The product was disposed of in the latter manner.

17266. Adulteration of rice. U. S. v. 17 Bags * * *. (F. D. C. No. 29573. Sample No. 75104–K.)

LIBEL FILED: September 8, 1950, Southern District of Mississippi.

ALLEGED SHIPMENT: On or about August 5, 1950, from Crowley, La.

PRODUCT: 17 100-pound bags of rice at Meridian, Miss.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: March 20, 1951. Default decree of condemnation. The court ordered that the product be offered to a public institution, for use as animal feed, conditioned that it be denatured so that it could not be diverted for human food; otherwise the product was to be destroyed.

DAIRY PRODUCTS

BUTTER

17267. Adulteration of butter. U. S. v. Money Creek Cooperative Creamery Assn. and Donald G. Byboth. Pleas of guilty. Corporation fined $1,000. Imposition of sentence against individual suspended; individual placed on probation for 3 years. (F. D. C. No. 29643. Sample Nos. 65418–K, 76093–K.)

INFORMATION FILED: November 29, 1950, against the Money Creek Cooperative Creamery Assn., a corporation, Money Creek, Minn., and Donald G. Byboth, manager.

ALLEGED SHIPMENT: On or about August 15 and 22, 1950, from the State of Minnesota into the State of Illinois.

LABEL, IN PART: "Creamery Butter Distributed By H. C. Christians Co. Chicago, Ill. Net Wt. 60 Lbs."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insects, insect parts, insect fragments, mites, manure, and sediment; and, Section 402 (a) (4), the product had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: April 9, 1951. Pleas of guilty having been entered, the court imposed a fine of $1,000 against the corporation, suspended the imposition of sentence against the individual, and placed the individual on probation for 3 years.

17268. Adulteration of butter. U. S. v. 100 Boxes (6,300 pounds) * * *. (F. D. C. No. 29815. Sample Nos. 65417–K, 65539–K.)

LIBEL FILED: September 19, 1950, Northern District of Illinois.

ALLEGED SHIPMENT: On or about August 14 and 21, 1950, by the Bennett Creamery Co., from Ottawa, Kans.

PRODUCT: 100 63-pound boxes of butter at Chicago, Ill. Examinations showed that the product contained insects, insect fragments, and mold.

LABEL, IN PART: "Creamery Butter Distributed By H. C. Christians Co. Chicago, Ill."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy and decomposed substance; and, Section 402 (a) (4), the article had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: March 15, 1951. The Bennett Creamery Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for conversion into soap stock, under the supervision of the Federal Security Agency.

EGGS

17269. Adulteration of frozen eggs. U. S. v. 255 Cans * * *. (F. D. C. No. 30824. Sample No. 9631–L.)

LIBEL FILED: February 28, 1951, Northern District of Illinois.

ALLEGED SHIPMENT: On or about August 16, 1950, by the Park-Grant Co., from Watertown, S. Dak.

PRODUCT: 255 30-pound cans of frozen eggs at Chicago, Ill.

LABEL, IN PART: (Can) "Whole Eggs * * * Packed By Peter Fox Sons Co. Watertown, South Dakota."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed eggs.

DISPOSITION: April 3, 1951. Fox DeLuxe Foods, Inc., Chicago, Ill., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation and destruction of the unfit portion, under the supervision of the Federal Security Agency. A total of 21 cans were found unfit and were denatured.

17270. Adulteration of frozen eggs. U. S. v. 199 Cans * * *. (F. D. C. No. 30485. Sample No. 9651–L.)

LIBEL FILED: January 30, 1951, Northern District of Illinois.

ALLEGED SHIPMENT: On or about January 5, 1951, by Harp Foods Mfg., Inc., from Shawnee, Okla.

PRODUCT: 199 30-pound cans of frozen eggs at Chicago, Ill.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: March 21, 1951. Harp Foods Mfg., Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. Of the 199 cans seized, 54 cans of the product were rejected and denatured for use in tanning processes.

17271. Adulteration of frozen eggs. U. S. v. 64 Cans * * *. (F. D. C. No. 30486. Sample No. 9652–L.)

LIBEL FILED: January 26, 1951, Northern District of Illinois.

ALLEGED SHIPMENT: On or about January 10, 1951, by the Fairmont Foods Co., from Omaha, Nebr.

PRODUCT: 64 30-pound cans of frozen eggs at Chicago, Ill.

LABEL, IN PART: "Whole Eggs * * * Fairmont Frozen Fresh Eggs."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: March 8, 1951. The Fairmont Foods Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation of the fit portion from the unfit, under the supervision of the Food and Drug Administration. Of the 64 cans seized, 16 cans of the product were found unfit and were denatured.

FRUITS AND VEGETABLES

CANNED FRUIT

17272. Adulteration of canned blueberries. U. S. v. 633 Cases * * *. (F. D. C. No. 29843. Sample No. 81437–K.)

LIBEL FILED: October 19, 1950, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about August 22, 1950, by G. M. Allen & Son, from Ellsworth, Maine.

PRODUCT: 633 cases, each containing 6 6-pound, 6-ounce cans, of blueberries at Philadelphia, Pa.

LABEL, IN PART: (Can) "Allen's Maine Blueberries."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of maggots.

DISPOSITION: June 12, 1951. Default decree of condemnation and destruction.

17273. Misbranding of canned peaches. U. S. v. 298 Cases * * *. (F. D. C. No. 30399. Sample No. 33791–K.)

LIBEL FILED: January 25, 1951, District of Massachusetts.

ALLEGED SHIPMENT: On or about December 19, 1950, by the Manteca Canning Co., from Manteca, Calif.

PRODUCT: 298 cases, each containing 24 1-pound, 13-ounce cans, of peaches at Somerville, Mass.

LABEL, IN PART: "Monarch Halves Yellow Cling Peaches."

NATURE OF CHARGE: Misbranding, Section 403 (h) (2), the product fell below the standard of fill of container for canned peaches since there was not present in the container the maximum quantity of the optional peach ingredient which can be sealed in the container and processed by heat so as to prevent spoilage, without crushing or breaking such ingredient, and its label failed to bear a statement that the product fell below the standard.

DISPOSITION: April 20, 1951. The shipper having appeared as claimant, judgment of condemnation was entered and the court ordered that the product be released under bond, conditioned that the misbranded portion be segregated and delivered to charitable institutions, under the supervision of the Food and Drug Administration. 149 cases and 21 cans of the product were found to be in compliance with the law and were released to the claimant, and 126 cases and 17 cans were delivered to various charitable institutions.

FROZEN FRUIT

17274. Adulteration of frozen black raspberries. U. S. v. 270 Cases * * *. (F. D. C. No. 29195. Sample No. 42639–K.)

LIBEL FILED: May 1, 1950, Northern District of Illinois.

ALLEGED SHIPMENT: On or about April 3, 1950, by the Chicago Smoked Fish Co., from Benton Harbor, Mich.

PRODUCT: 270 cases, each containing 28 pounds, of frozen black raspberries at Chicago, Ill.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of moldy berries.

DISPOSITION: May 22, 1951. Default decree of condemnation and destruction.

MISCELLANEOUS FRUIT PRODUCTS

17275. Adulteration and misbranding of fruit spreads. U. S. v. 30 Cases, etc. Tried to the court. Judgment for Government (reported in 93 F. Supp. 764). Decree of condemnation. Product ordered delivered to charitable institutions. (F. D. C. No. 29338. Sample Nos. 76225–K to 76227–K, incl.)

LIBEL FILED: May 26 1950, Southern District of Iowa.

ALLEGED SHIPMENT: On or about March 21, 1950, by the Certified Products Co., from Chicago, Ill.

PRODUCT: 30 cases of strawberry fruit spread, 12 cases of peach fruit spread, and 8 cases of apricot fruit spread, at Des Moines, Iowa. Each case contained 12 2-pound jars.

LABEL, IN PART: (Jar) "Leader Brand Strawberry [or "Peach" or "Apricot"] Fruit Spread * * * Manufactured by Martin Food Products, Inc., Chicago, Illinois."

NATURE OF CHARGE: Adulteration, Section 402 (b) (4), water, sugar, and corn sirup had been added to the products and mixed and packed with them so as to increase their bulk and weight and make them appear better and of greater value than they were.

Misbranding, Section 403 (g) (1), the products purported to be and were represented as strawberry, peach, and apricot jams, respectively, products for which definitions and standards of identity have been established, and they failed to conform to such definitions and standards since they had not been made from mixtures composed of not less than 45 parts by weight of the designated fruit ingredient to each 55 parts by weight of one of the optional saccharine ingredients, as required by the definitions and standards; and, in addition, the products failed to conform to such definitions and standards in that they contained added water, sugar, and corn sirup.

DISPOSITION: The Certified Products Co. having appeared as claimant and having denied that the products were adulterated or misbranded, the case came on for trial before the court on July 17, 1950. The trial was concluded on July 26, 1950, and was submitted to the court for decision.

On October 19, 1950, the court delivered the following memorandum opinion, findings of fact, and conclusions of law:

SWITZER, *District Judge:* "This suit seeks to condemn articles of food under the provisions of Section 342 (b) (4) and Section 343 (g) (1), Title 21, U. S. C. A., and the regulations promulgated by the Federal Security Administrator, pursuant to Section 341, Title 21, U. S. C. A., upon the claim that the foods in question were adulterated and misbranded when introduced into and while in interstate commerce.

"Claimant made answer, admitting that the articles involved were 'Foods' within the meaning of the Act; that these articles were shipped in interstate commerce; that definitions and standards of identity have been prescribed for strawberry, peach and apricot jams; and that the foods here involved do not conform to such definitions and standards.

"Claimant denies that the articles are misbranded or adulterated, claiming that the articles seized do not purport to be anything else than 'strawberry fruit spread,' 'peach fruit spread,' and 'apricot fruit spread,' being plainly labeled with a list of all the ingredients in the order of their predominance and being clearly and plainly distinguishable from jams or preserves of the same flavor.

"Claimant further affirmatively contends that the standards promulgated by the Administrator for jams and preserves do not apply to the articles here seized, in that, these foods are distinctive in content as well as in name, in the manufacture of which it has exclusive proprietary rights.

"Claimant's answer further—'reserves the right to contest the validity of such definitions and standards as is provided for in Section 701 (e) (6) of the Act.' No evidence having been adduced in support of this last affirmative defense and no authorities shown in behalf thereof, no further consideration will here be given thereto.

"The products seized were uniform 2 lb. glass jars which claimant sold to wholesale grocers and retail stores, which jars and lids are typical of the type used in packaging standard jams and preserves in the industry. The labels used are typical in appearance with standard jams, preserves and jelly labels, known in the industry as 'spot labels.' There appears no element of dissimilarity between the labels upon the seized articles and those customarily used on standard jams, preserves and jellies. The labels bore the words—

Leader Brand
Strawberry Fruit Spread

Leader Brand
Peach Fruit Spread

Leader Brand
Apricot Fruit Spread

below which appeared in small type a list of the ingredients, but with no statement or notation as to the percentages of each.

"The general appearance of the jar in each of these articles is similar as to color and constituency with similar sized jars of standard preserves and jams. It is true that each of the flavors seized was somewhat lighter in color and thinner in consistency than the related standard jams and preserves, but not so much so as to be discernible or apparent unless held up to the light and carefully observed. One of claimant's own witnesses, when confronted on cross examination, found himself unable to correctly distinguish between strawberry fruit spread and standard strawberry jam, although, on direct examination, the witness had stoutly maintained he was easily able to do so.

"I must conclude that to the ordinary housewife or purchaser of the product from the grocer's shelf, no difference would ordinarily be detected between the products seized and the standard jams and preserves.

"It was further shown by a preponderance of the evidence that the claimant on one occasion referred to these articles in its invoice as '95 cs preserves 3,040 lbs.'; that at least one wholesale grocer likewise at times invoiced the articles in question in the same manner; that as late as March 20, 1950, the sales dodgers distributed to the retail trade by at least one wholesale grocer referred to the Leader Brand products as 'fruit jam spread'; and in at least one newspaper advertisement by a retail store the following wording appeared in the ad in connection with one of the condemned articles: 'Leader Brand

Strawberry Jam'; and in some instances retail grocers themselves were confused as to whether these items were or were not jam.

"The evidence discloses that the foregoing representations did not constitute the universal practice, but I must conclude that the showing made does establish by a preponderance of the evidence that there was a substantial amount of actual representation of these seized items to be jams and preserves.

"Additionally, it was established without substantial controversy that the Leader Brand products were universally placed by retail grocers for display and sale in their stores in the jams, preserves and jelly shelf sections thereof, with no notice of any kind to the unwary and inexperienced purchaser of any differential or distinction between the Leader Brand Products and the standard jams and preserves as to quality.

"It is contended by the claimant that the very fact that a two-pound jar of the Leader Brand Product sold at a much lesser retail price than a comparatively sized jar of a standard jam or preserve should have been notice in and of itself. I cannot subscribe to this view. This court must notice modern merchandising methods which frequently make it possible for consumers to buy commodities below the cost price to the retailer himself, a fact well known to the ordinary housewife. Further, it is a matter of common knowledge that since the enactment of the Food, Drug & Cosmetic Act of 1938, consumers of food products have come more and more to rely upon the uniform quality of standardized commodities, generally the effect of which is to make all less wary and more credulous. Indeed, the brand name itself—'LEADER BRAND'—appearing in bold print on the label gives further credence to the belief by many that the cheapness of the price of this product was due to the fact that it was a leader article.

"Upon the question of adulteration, it should be noticed that the standard admittedly fixed for jams and preserves by the Administrator requires 45 per cent sugar by weight and 55 per cent fruit by weight, whereas the formula of composition under which the condemned articles were manufactured is as follows:

100	pounds of fruit
100	pounds of sugar
68.5	pounds of corn syrup
80	fluid ounces of 50% citric acid solution
170	pounds of pectin solution.

The batch is then cooked to 68% soluble solids content. Both standard jams and Leader Brand products contain 32% water. However, in the manufacture of standard jams no water is introduced from the tap, whereas in Leader Brand Products 22.8% of the water remaining in the products comes from the tap.

Section 342 (b), Title 21, U. S. C. A., provides that—

A food shall be deemed to be adulterated * * * (4) if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight * * * or make it appear better or of greater value than it is.

"A simple and direct application of the plain wording of the statute would seem to compel a conclusion that if the condemned articles purported to be standardized jams and preserves and were represented as such to the retail trade, that they were adulterated within the meaning of the last above-quoted statute.

"Having therefore concluded that the condemned foods were in fact 'represented' as strawberry jam, peach jam and apricot jam, there remains but one issue for determination by the court, apart from the affirmative defense which will be later considered, that is, whether the condemned foods 'purport' to be strawberry jam, peach jam and apricot jam, within the meaning of Section 343 (g) (1) of Title 21, U. S. C. A.

"Both the legislative history and judicial interpretations of the Federal Food, Drug and Cosmetic Act disclose that the primary purpose and aim of Congress in enacting this important piece of legislation was not the protec-

tion of the merchants and traders, but rather the protection of the consuming public.

"The House Committee on Interstate and Foreign Commerce, in reporting on S. 5, a precursor to the bill which was enacted into law, summed up the purpose of the proposed law in the following manner:

> This act seeks to set up effective provisions against abuses of consumer welfare growing out of inadequacies in the Food and Drugs Act of June 30, 1906 as amended. * * *
> While the old law has been of incalculable benefit to the American consumers, it contains serious loopholes and is not sufficiently broad in its scope to meet the requirements of consumer protection under modern conditions. (H. Rep. No. 2139, 75th Cong. 3d Sess. p. 1.)

The Supreme Court in speaking of the purpose of the Act states:

> The purposes of this legislation thus touch phases of the lives and health of people which, in the circumstances of modern industrialism, are largely beyond self protection. Regard for these purposes should infuse construction of the legislation if it is to be treated as a working instrument of government and not merely as a collection of English words. (U. S. v. Dotterweich, 320 U. S. 277, 280.)

See U. S. v. Antikamnia Co., 231 U. S. 654, 665; U. S. v. Two Bags * * * Poppy Seeds, 147 F. 2d 123 (CCA 6).

"To correctly interpret Section 343 (g), Title 21 U. S. C. A., with reference to whether an article of food in fact purports to be or is represented as a standardized article to the ultimate consumer, the criteria is the measurement of the effect of the article upon an ordinary as distinguished from an overly skeptical or critical buyer. The Act was not designed to protect the critical consumer; rather its purpose is 'to protect the public, the vast multitude which includes the ignorant, the unthinking, and the credulous who, when making a purchase, do not stop to analyze.' U. S. v. 62 Packages * * * Marmola Prescription Tablets, 48 F. Supp. 878, 887, af. 142 F. 2d 107; cert. denied, 323 U. S. 731. *See also* U. S. v. 43½ Gross * * * Rubber Prophylactics, 65 F. Supp. 534, 537, (af. 159 F. 2d 881 (CCA)), where the court referred to the congressional purpose of 'protecting the uninformed from buying an article which was different from what it purported to be.'

"It is well established that the Federal Food, Drug and Cosmetic Act is remedial legislation and should be liberally construed so as to carry out its beneficent purposes; U. S. v. Dotterweich, supra; Pasadena Research Lab's., Inc. v. U. S., 169 F. 2d 375 (CCA 9) cert. denied 335 U. S. 853; Research Lab's., Inc., v. U. S., 167 F. 2d 410, cert. denied 335 U. S. 843; U. S. v. Two Bags * * * Poppy Seeds, 147 F. 2d 123 (CCA 6); C. C. Co. v. U. S. on rehearing, 147 F. 2d 820 (CCA 5); and whether the deception or misleading is willful is immaterial in this case. Adulterated or misbranded foods are subject to seizure and condemnation under the Act without regard to the manufacturer's intent. See U. S. v. 75 Cases * * * Peanut Butter 146 F. 2d 124 (CCA 4), cert. denied 325 U. S. 856, and U. S. v. Two Bags * * * Poppy Seeds, supra.

"Claimant asserts that the articles under seizure do not 'purport' to be preserves, jams, or jellies.

"In considering the scope of Sec. 343 (g), 21 U. S. C. A. the word 'purport' should be given its usual, ordinary meaning. Webster's New International Dictionary, 2d Ed., defines 'purport' as follows:

> To convey, imply, or press outwardly, as one's (esp. a thing's) meaning, intention, or true character; to have the appearance, often specious appearance, of being, intending, claiming, etc. (that which is implied or inferred); * * *.

This definition was relied upon in U. S. v. 306 Cases * * * Sandford Tomato Catsup with Preservative, 55 F. Supp. 725, 727, aff'd 146 F. 2d 71 (CCA 2), which is a case based upon much the same issues as are here involved.

"The common and ordinary meaning of 'misbranding' as related to foods has to do with names, statements and declarations appearing on the label. 'Misbrand' is defined in Webster's New International Dictionary, 2d Ed., as—

> To brand falsely; spec., to brand as containers of drugs or foodstuffs, in contravention of statutory requirements.

Synonyms of 'brand' are given by the same source as, 'stamp, mark, label.'

"Section 343 (g), Title 21 U. S. C. A., provides, however, its own glossary on misbranding. U. S. v. Coca Cola Co., 241 U. S. 265, 277. Under the definition set out in the Act a food may be 'misbranded' with a label which meets every

label provision of the Act and truthfully describes the article. This definition of misbranding does not look to the label or the marking on the food for its interpretation, but turns on the factual issue of whether a particular food 'purports to be' or 'is represented as' a food for which a definition and standard of identity has been promulgated. If the facts reveal, as in the instant case, that it does so purport to be, then the law requires that the article comply with the established standard of identity of the food it purports to be. Otherwise it is misbranded.

"Additionally, Section 343 (d), Title 21, U. S. C. A., provides that a food shall be 'misbranded'—'if its container is so made, formed or filled as to be misleading.' It follows therefore that a label can be in all respects truthful as to the quantity and natural components of the contents of the container and yet the article is 'misbranded' nevertheless, if its container is so filled as to lead an ordinary consumer to the belief that the contents are a standardized product.

"If the court therefore were to permit Section 343 (g) to be circumvented by the simple device of using truthful labels on a product which does not conform to a definition and standard of identity but conveys the impression (purports) that it is a food for which the definition and standard has been prescribed, the effectiveness of the Section, and the salutary features of food standardization, would be destroyed. That the Congress intended the integrity of the identity of standards to be upheld and that they be applied without variation is clear from the pattern of the Federal Food, Drug and Cosmetic Act itself. The use of a statement on the label that an article of food falls below the standard of quality, or below the standard of fill of the container is permitted under Section 343 (h) (1) and (2), but no such permission is granted in Section 343 (g) (1), where the article of food fails to conform to the applicable standard of identity. The very fact that the Congress specifically provided for the use of a substandard label in respect to Section 343 (h), Title 21 U. S. C. A., but made no similar provision with respect to Section 343 (g), reveals the congressional design not to permit a food which purports to be a product which has been defined or standardized, but does not conform thereto, to be exempted by means of informative labeling. U. S. v. 716 Cases * * * Del Comida Brand Tomatoes * * *, 179 F. 2d 174 (CCA 10). The distinction is also pointed out in the following excerpts from congressional committee reports:

> Definitions and standards of identity are provided under which the integrity of food products can be effectively maintained. * * * (H. Rep. No. 2755, 74th Cong. 2d Sess., p. 4; H. Rep. No. 2139, 75th Cong. 3d Sess., p. 2; See Dunn, "Federal Food, Drug and Cosmetic Act", pp. 553, 816.)[1]

"The maintenance of the integrity of a food product patently deals with the food itself, not merely its labeling.

"The correctness of the conclusions above reached is further emphasized by the legislative history recognizing the necessity for standards of identity to eliminate distribution of debased and cheapened food products made possible by the 'distinctive name' proviso of Section 10 of the 1906 Food & Drug Act (Sec. 10, Title 21 U. S. C. A., repealed June 25, 1938).

"In U. S. v. 10 Cases, more or less, Bred Spred, 49 F. 2d 87 (CCA 8) the government proceeded under the Food and Drug Act of 1906 against a product sold under the name of 'Bred Spred' which resembled jam but contained only one-half of the normal fruit content as measured by trade and household practice. The Court of Appeals affirmed a directed verdict for the claimant, holding the product to be neither adulterated nor misbranded. The House Committee on Interstate and Foreign Commerce in reporting on the bill which was enacted as the Federal Food, Drug and Cosmetic Act of 1938, referred to this decision (H. Rep. No. 2139, 75th Cong. 3d Sess., p. 5 accompanying S. 5) as follows:

> Section 401 (21 U. S. C. 341) provides much needed authority for the establishment of definitions and standards of identity and reasonable standards of quality and fill of container for food. One great weakness in the present food and drugs law is the absence of authoritative definitions and standards of identity except in the case of butter and some canned foods. The Government repeatedly has had difficulty in holding

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[1] Many of the committee reports and hearings in connection with the Act are difficult to obtain. Since Dunn's work is the standard compilation of the legislative history of the Act and is readily available in law libraries, it is cited for that reason and will be hereinafter referred to as "Dunn's."

such articles as commercial jams and preserves and many other foods to the time honored standards employed by housewives and reputable manufacturers. The housewife makes preserves by using equal parts of fruit and sugar. The fruit is the expensive ingredient, and there has been a tendency on the part of some manufacturers to use less and less fruit and more and more sugar.

The Government has recently lost several cases where such stretching in fruit was involved because the courts held that the well-established standards of the home, followed also by the great bulk of manufacturers, is not legally binding under existing law (Dunn, p. 819).

"This quotation from the congressional reports demonstrates the congressional intent to render the 'Bred Spred' decision inapplicable through the effect of the identity standard provisions of the 1938 Act.[2]

"The courts before which the problem has been presented have held consistently that the label of a food is not the controlling factor in determining whether under the 1938 Act an article 'purports' to be a standardized food. *See* Federal Security Administrator v. Quaker Oats Co., 318 U. S. 218; U. S. v. 306 cases * * * Sandford Tomato Catsup With Preservatives, 55 F. Supp. 725, aff'd 148 F. 2d 471.

"Claimant cites U. S. v. 99 Cases * * * Fountain Fruit (E. D. Tenn., Sept. 10, 1948). Since the dictum would seem to modify to some extent the conclusions hereinabove reached, it should be noted that this court in a supplemental memorandum filed Oct. 27, 1949, deleted from its original opinion the portion upon which claimant relies.

"Claimant also cites U. S. v. 62 Cases * * * Jam, 87 F. Supp. 735 (D. N. Mex.), which involved the same misbranding charge as is here involved. The case was reversed on appeal on June 27, 1950.

"In the instant case the ingredients contained in the articles are wholesome, nutritious, and palatable and on the whole much less expensive than a like quantity of standardized jams or preserves. Still from the formula above set forth, it is at once apparent that the product has been cheapened by the inclusion of many ingredients and by the sharp reduction in the use of fruit therein, not permitted under the standard promulgated for jams and preserves. Notwithstanding this adulteration, these products have the general appearance of standardized jams. They are packaged similarly, labeled similarly, are exhibited for sale on the merchant's shelves by the side of and in the midst of standardized jams, preserves and jellies, and, in general, constitute themselves to the uncritical, the unsuspecting and the unwary as a standardized jam or preserve, and because of comparative costs, appear to be a bargain.

"I must further hold that the claimant failed to establish by a preponderance of the evidence that the term 'Fruit Spread' which appears on the label has any recognized meaning as a food product separate and distinct from a standard jam. To the contrary, I must conclude from the evidence that if the term 'Fruit Spread' has any meaning at all to the ordinary, average consumer that it means jams, preserves, jellies, fruit butter, or marmalade—those standardized food commodities which consumers are accustomed to use as a spread for bread or other bakery products. Under the holding and reasoning contained in Federal Security Administrator v. Quaker Oats Co., supra, and the other cases cited in this opinion, the claimant here can not be heard to say that its products 'Leader Brand Fruit Spreads' are in any sense proprietary or are in any degree foods distinctive in content as well as in name, in which the manufacturer, claimant here, has exclusive proprietary rights.

"In the preserve industry and in the trade, the term 'Fruit Spread' means standardized jams, preserves, jellies, fruit butter or marmalade, exactly as it does to the consuming public.

"I therefore make the following

FINDINGS OF FACT

"1. There was tried before the Court, sitting without a jury, a libel of information involving seizure for condemnation under the Federal Food, Drug, and Cosmetic Act, 21 U. S. C. 334, of articles of food manufactured by Certified Products Company, Chicago, Illinois, which company appeared as claimant.

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[2] That the Congress was fully apprised of the serious consequences of the Bred Spred case when it deliberately undertook to counteract them by the 1938 Act is clearly shown in the hearings on legislative proposals which became the Federal Food, Drug and Cosmetic Act. See Dunn, pp. 1051–2.

"2. The libel charges that the articles were misbranded when introduced into and while in interstate commerce in that they purport to be and are represented as strawberry jam, peach jam and apricot jam, foods for which definitions and standards of identity have been prescribed by regulations, and that they failed to conform to such definitions and standards. The libel further charges that the articles were at such times adulterated in that water, sugar and corn syrup had been added thereto and mixed and packed therewith so as to increase their bulk and weight and make them appear better and of greater value than they are.

"3. Claimant admitted that the articles of food were introduced into interstate commerce at Chicago, Illinois, by claimant for shipment to Des Moines, Iowa, where they were libeled and seized.

"4. The interstate shipment consisted of a number of cases each containing 12 two-pound jars of an article labeled in part:

(Jar) Leader Brand Strawberry [Peach or Apricot] Fruit Spread

"5. Claimant admitted that the seized articles are foods within the meaning of the Federal Food, Drug and Cosmetic Act.

"6. Pursuant to authority granted by 21 U. S. C. 341, there have been promulgated definitions and standards of identity for jams. 21 CFR 29.0.

"7. Claimant admitted that the articles here involved do not comply with the definitions and standards of identity for jams.

"8. Leader Brand Strawberry, Peach and Apricot Fruit Spreads were sold through food brokers to wholesale grocers who in turn sold or distributed the articles to retail grocery stores. This is the normal procedure for marketing standard jams.

"9. Leader Brand Strawberry, Peach and Apricot Fruit Spreads were at times invoiced as preserves in the marketing procedure. Some retail grocery store managers believed these articles were cheap jams or preserves and so described them to customers. On at least one occasion Leader Brand Strawberry Fruit Spread was advertised in a newspaper as strawberry jam.

"10. Leader Brand Strawberry, Peach and Apricot Fruit Spreads were capable, or had the tendency of confusing retail grocery store managers and of being represented to them, and from them of being represented through display on grocery store shelves to the ordinary consumer as standard strawberry, peach and apricot jams.

"11. The retail grocers customarily placed Leader Brand Strawberry, Peach and Apricot Fruit Spreads in the jam or preserves section of their stores and intermingled said articles with jams or preserves, jellies, fruit butter and marmalade and sold them to the public as jams or preserves.

"12. The type of glass jar, the vacuum-type closure, and the general makeup of the 'spot' labels in which Leader Brand Strawberry, Peach and Apricot Fruit Spreads were packaged, their general appearance, their color, consistency, the visibility of strawberry seeds and pieces of peach and apricot fruit through the glass jar and the manner of their display in the jam or preserves section in retail grocery stores combine to convey to the ordinary consumer the impression that Leader Brand Strawberry, Peach and Apricot Fruit Spreads are, respectively, strawberry jam, peach jam and apricot jam.

"13. The term 'Fruit Spread' in the preserve industry and in the trade means jam, jelly, fruit butter or marmalade.

"14. If the term 'Fruit Spread' has any meaning at all to the ordinary consumer it means jam, jelly, fruit butter or marmalade.

"15. A two-pound jar of Leader Brand Strawberry Fruit Spread is composed of 10% fruit, 67.2% solids of sugars, and 22.8% tap water in addition to the fruit moisture, whereas a two-pound jar of standard strawberry jam is composed of 36.2% concentrated fruit and 63.8% solids of sugars.

"16. A two-pound jar of Leader Brand Peach Fruit Spread is composed of 10% fruit, 66.8% solids of sugars, and 23.2% tap water in addition to the fruit moisture, whereas a two-pound jar of standard peach jam is composed of 40.7% concentrated fruit and 59.3% solids of sugars.

"17. A two-pound jar of Leader Brand Apricot Fruit Spread is composed of 9.9% fruit, 66.6% solids of sugars, and 23.5% tap water in addition to the fruit moisture, whereas a two-pound jar of standard apricot jam is composed of 41.9% concentrated fruit and 58.1% solids of sugars.

"18. Added tap water and solids of sugars derived from corn syrup and sugar are contained in Leader Brand Strawberry, Peach and Apricot Fruit Spreads, which ingredients increase their bulk and weight and make these articles appear to the ordinary consumer better and of greater value than they are.

CONCLUSIONS OF LAW

"1. The Court has jurisdiction of the parties and the subject matter of this case under the provisions of the Federal Food, Drug, and Cosmetic Act, 21 U. S. C. 301, et seq.

"2. The phrase 'purports to be' is not defined and is used in the Federal Food, Drug, and Cosmetic Act, 21 U. S. C. 343 (g), in its usual and ordinary sense; that is, the phrase includes what the object appears to be, gives or conveys the impression of being, and is accepted as by the ordinary consumer under ordinary conditions of purchase.

"3. Truthful labeling is relevant but not the controlling factor in determining whether an article 'purports' to be, or is represented as a food for which a definition and standard of identity has been promulgated under the Federal Food, Drug, and Cosmetic Act, 21 U. S. C. 341.

"4. The standard of identity for a food may not be avoided merely by designating a food which purports to be or is represented as a standardized food by a name other than that set out in the standard of identity.

"5. The general appearance, color, consistency, and mode of packaging, distribution and marketing, manner of display on retail grocery store shelves, and labeling of an article of food may be such that it purports to be, or is represented as an article of food for which a definition and standard of identity has been promulgated even though none of these acts taken singly and apart from the general scheme would cause such deception.

"6. An article of food may be deemed misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act, 21 U. S. C. 343 (g), because it purports to be or is represented as a food for which definitions and standards of identity have been promulgated without regard to whether the manufacturer intended it to simulate or be represented as an article of food for which a definition and standard of identity has been promulgated.

"7. The articles of food seized under the libel here involved are misbranded within the meaning of 21 U. S. C. 343 (g) in that they purport to be or are represented as strawberry jam, peach jam or apricot jam, foods for which definitions and standards of identity have been prescribed by regulations and they fail to comply with such standards.

"8. The articles of food seized under the libel here involved are adulterated within the meaning of 21 U. S. C. 342 (b) (4) in that water, sugar and corn syrup have been added thereto and packed therewith so as to increase their bulk and weight and make them appear better and of greater value than they are.

"9. The Government is entitled to a decree of condemnation."

On November 14, 1950, a decree of condemnation and forfeiture was entered, and the court ordered that the product be delivered to charitable institutions. On December 11, 1950, the claimant filed a notice of appeal to the Circuit Court of Appeals for the Eighth Circuit; however, on April 2, 1951, on claimant's motion, an order was filed dismissing the appeal.

17276. Adulteration of strawberry preserves. U. S. v. 41 Cases * * * (and 1 other seizure action). (F. D. C. No. 30430. Sample No. 25024-L.)

LIBELS FILED: February 7, 1951, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about October 7, 1950, by Baumer Foods, Inc., from New Orleans, La.

PRODUCT: 141 cases, each containing 24 1-pound jars, of strawberry preserves at Philadelphia, Pa.

LABEL, IN PART: (Jar) "Crystal Brand Pure Strawberry Preserves."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed strawberry material.

DISPOSITION: April 16, 1951. Default decrees of condemnation and destruction.

17277. Adulteration and misbranding of frozen orange drink base. U. S. v. 300 Cases * * *. (F. D. C. No. 29310. Sample Nos. 78513–K, 78514–K.)

LIBEL FILED: May 18, 1950, Western District of Washington.

ALLEGED SHIPMENT: On or about April 7, 1950, by the Orange King Products of California, Inc., from Los Angeles, Calif.

PRODUCT: 300 cases, each containing 48 6-ounce cans, of frozen orange drink base at Seattle, Wash.

LABEL, IN PART: (Can) "Orange King Concentrate."

NATURE OF CHARGE: Adulteration, Section 402 (b) (4), the product consisted of a mixture of orange juice and concentrated orange juice to which sugar and citric acid had been added and with which yellow coal-tar dyes had been mixed, which substances so added and so mixed to the product increased its bulk and made the product appear to be better and of greater value than it was, namely, an article that contained substantially more orange juice than was actually present.

Misbranding, Section 403 (a), the statements on the label "Orange King Concentrate A Fresh Frozen Orange Drink Base * * * A perfected blend of fresh orange juice and concentrated fresh orange juice with sweetness and acid balanced by sugar and fruit citric acid. * * * Contents Makes 1¼ Pints * * * A Natural Source of Vitamin 'C' * * * Empty can into bowl or pitcher. Add two full cans of water to concentrate * * *," together with the vignette on the label showing an orange and orange leaves and a glass containing an orange-colored beverage, were false and misleading in that they represented and suggested that the article was a concentrated orange juice which, when diluted as directed, would make reconstituted orange juice with the vitamin C content and the other nutritional properties of orange juice, whereas the article, when diluted as directed, would make a beverage containing the equivalent of only approximately 35 percent of orange juice. The labeling was further misleading in that it failed to reveal that the product, when diluted as directed, would contain only about 35 percent of orange juice, which fact was material in the light of the labeling statements and the general design of the label which was used on the 6-ounce-size cans in which the product was packed and intended to be displayed and stored in frozen food compartments in retail outlets in juxtaposition or in close placement to frozen concentrated orange juice, which, when diluted in accordance with the directions, would make reconstituted orange juice. Further misbranding, Section 403 (a), the label statement "Makes 1¼ Pints" was false and misleading as applied to an article which, when diluted, would make only 1⅛ pints.

DISPOSITION: March 19, 1951. Orange King Products of California, Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released to the claimant under bond for relabeling under the supervision of the Food and Drug Administration.

VEGETABLES AND VEGETABLE PRODUCTS

17278. Misbranding of canned green beans. U. S. v. 49 Cases * * *. (F. D. C. No. 30418. Sample No. 28876–L.)

LIBEL FILED: February 5, 1951, District of Massachusetts.

ALLEGED SHIPMENT: On or about January 8, 1951, by Albany Food Products, Inc., Albany, Oreg.

PRODUCT: 49 cases, each containing 6 6-pound, 5-ounce cans, of green beans at Boston, Mass.

LABEL, IN PART: (Can) "Snow Peak Blue Lake Cut Green Beans."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned cut green beans since it contained an excess number of tough strings and the label failed to bear a statement that the product fell below the standard.

DISPOSITION: May 1, 1951. Default decree. The court ordered that the product be delivered to a public institution.

17279. Adulteration of canned black-eyed peas. U. S. v. 28 Cases * * *. (F. D. C. No. 30558. Sample No. 31954–L.)

LIBEL FILED: On or about February 19, 1951, Western District of Missouri.

ALLEGED SHIPMENT: On or about September 13, 1950, by Thomas & Drake Canning Co., from Haskell, Okla.

PRODUCT: 28 cases, each containing 48 15-ounce cans, of black-eyed peas at Monett, Mo.

LABEL, IN PART: (Can) "Black Eye Peas Lahoma."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects.

DISPOSITION: April 19, 1951. Default decree of destruction.

17280. Adulteration of pickles and relish. U. S. v. Sebald Stahl (Springfield Pickle Works). Plea of guilty. Fine, $500. (F. D. C. No. 30080. Sample Nos. 77410–K, 77413–K, 77414–K, 85249–K.)

INFORMATION FILED: January 19, 1951, Western District of Missouri, against Sebald Stahl, trading as the Springfield Pickle Works, Springfield, Mo.

ALLEGED SHIPMENT: On or about September 9, 11, and 14, 1950, from the State of Missouri into the States of Illinois and Iowa.

LABEL, IN PART: "Mountain Treat Sweet Cross-Cut Pickles [or "Sweet Relish"] Springfield Pickle Works Springfield Mo." and "H & R Hotel Special Relish Geo. O. Pasquel Co. Peoria, Illinois."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in part of filthy substances by reason of the presence of fly heads, insect fragments, moth scales, setae, rodent hair fragments, and feather barbules; and, Section 402 (a) (4), the products had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: April 2, 1951. A plea of guilty having been entered, the court imposed a fine of $500 against the defendant.

17281. Adulteration of canned spinach. U. S. v. 77 Cases * * * (and 13 other seizure actions). (F. D. C. Nos. 30416, 30433, 30436, 30440, 30456, 30522, 30525, 30531, 30537, 30543, 30544, 30548, 30555, 30556. Sample Nos. 1293–L, 1295–L, 5179–L to 5181–L, incl., 10761–L to 10763–L, incl., 11059–L, 11564–L, 11861–L, 11862–L, 15254–L, 15257–L, 15258–L, 16158–L, 16160–L.)

LIBELS FILED: Between February 5 and 15, 1951, Northern District of Georgia, District of Massachusetts, Southern District of Indiana, Northern and Western Districts of Oklahoma, Southern District of Ohio, Western District of Kentucky, and Western District of Missouri.

ALLEGED SHIPMENT: Between the approximate dates of November 21, 1950, and January 18, 1951, by the Arkansas Valley Canning Co., from Van Buren, Ark.

PRODUCT: 2,762 cases of canned spinach at Atlanta, Ga.; Springfield and Holyoke, Mass.; Indianapolis, Ind.; Tulsa and Oklahoma City, Okla; Xenia and Athens, Ohio; Louisville, Ky.; and Kansas City, Mo.

A portion of the cases contained 6 cans in 6-pound, 2-ounce, and 6-pound, 4-ounce, sizes, and other cases contained 24 cans in 1-pound, 2-ounce, and 1-pound, 11-ounce, sizes.

LABEL, IN PART: (Can) "Rebecca Lee [or "Forest Park" or "Square Seal"] Brand Spinach" or "Bluff Creek [or "E Brand Eavey's," "Our Seal," "Kenny's," or "Virginia Lee"] Spinach."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of worms.

DISPOSITION: Between March 5 and April 5, 1951. Default decrees of condemnation. The courts ordered that a portion of the lots of spinach be delivered to public institutions, for use as animal feed, and that the remainder of the lots be destroyed.

17282. Adulteration of canned spinch. U. S. v. 181 Cases * * *. (F. D. C. No. 30419. Sample No. 9232–L.)

LIBEL FILED: February 16, 1951, Northern District of Illinois.

ALLEGED SHIPMENT: On or about October 27, 1950, by the Alma Canning Co., from Alma, Ark.

PRODUCT: 181 cases. each containing 48 8-ounce cans, of spinach at Chicago, Ill.

LABEL, IN PART: (Can) "Savoy Spinach."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of worms.

DISPOSITION: May 8, 1951. Default decree of condemnation and destruction.

17283. Adulteration of creole okra dinner. U. S. v. 92 Cases * * *. (F. D. C. No. 30211. Sample Nos. 33507–K, 33513–K.)

LIBEL FILED: December 18, 1950, Northern District of California.

ALLEGED SHIPMENT: On or about June 26, 1950, by Pine Grove Canning Co., Inc., from St. Martinville, La.

PRODUCT: 92 cases, each containing 24 1-pound, 3 ounce cans, of creole okra dinner at Oakland, Calif.

LABEL, IN PART: (Can) "Creole Maid Brand Creole Okra Dinner."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: May 10, 1951. Default decree of condemnation and destruction.

TOMATOES AND TOMATO PRODUCTS

17284. Adulteration and misbranding of canned tomatoes. U. S. v. 478 Cases * * *. (F. D. C. No. 29864. Sample No. 65433–K.)

LIBEL FILED: November 9, 1950, Northern District of Illinois.

ALLEGED SHIPMENT: On or about September 29, 1950, by Merritt Food Products, Inc., from Sweetsers, Ind.

PRODUCT: 478 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Chicago, Ill.

LABEL, IN PART: "Blossom Tomatoes."

NATURE OF CHARGE: Adulteration, Section 402 (b) (4), water had been added to the product and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

Misbranding, Section 403 (g) (1), the product purported to be, and was represented as, canned tomatoes, and it failed to comply with the definition and standard of identity for canned tomatoes since it contained added water, which is not a permitted ingredient.

DISPOSITION: May 23, 1951. Merritt Food Products, Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the purpose of converting it into a concentrated tomato product, under the supervision of the Food and Drug Administration.

17285. Misbranding of canned tomatoes. U. S. v. 984 Cases * * *. (F. D. C. No. 30200. Sample No. 91505–K.)

LIBEL FILED: December 21, 1950, District of Minnesota.

ALLEGED SHIPMENT: On or about September 11, 1950, by the Jaqua Co., from Ansonia, Ohio.

PRODUCT: 984 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Duluth, Minn.

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned tomatoes since it contained excessive peel and its label failed to bear a statement that it fell below the standard.

DISPOSITION: March 13, 1951. Piggly Wiggly Northwest, Inc., Duluth, Minn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled, under the supervision of the Food and Drug Administration.

17286. Misbranding of canned tomatoes. U. S. v. 622 Cases * * *. (F. D. C. No. 30303. Sample No. 88336–K.)

LIBEL FILED: November 28, 1950, District of New Mexico.

ALLEGED SHIPMENT: On or about October 10, 1950, by Hargis Canneries, Inc., from Fayetteville, Ark.

PRODUCT: 622 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Albuquerque, N. Mex.

LABEL, IN PART: (Can) "Hand Packed Hargis Brand Tomatoes."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned tomatoes since it contained excessive peel and its label failed to bear a statement, as specified by the regulations, that the product fell below such standard.

DISPOSITION: January 8, 1951. Hargis Canneries, Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. The product was relabeled.

17287. Adulteration of tomato catsup. U. S. v. 95 Cases * * *. (F. D. C. No. 30429. Sample No. 25093–L.)

LIBEL FILED: February 7, 1951, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about December 19, 1950, by Clement Pappas & Co., from Cedarville, N. J.

PRODUCT: 95 cases, each containing 6 7-pound, 3-ounce cans, of tomato catsup at Philadelphia, Pa.

LABEL, IN PART: (Can) "Arthur Brand Fancy Tomato Catsup."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

DISPOSITION: April 16, 1951. Default decree of condemnation. The court ordered that the product under seizure, a total of 21 cases, be destroyed.

17288. Adulteration of tomato juice. U. S. v. 2,397 Cases * * * (and 1 other seizure action). (F. D. C. Nos. 30264, 30294. Sample Nos. 9520–K, 88852–K.)

LIBELS FILED: November 17 and 22, 1950, Eastern District of Pennsylvania and District of New Jersey.

ALLEGED SHIPMENT: On or about October 26, 1950, by the Vincennes Packing Corp., from Lockport, N. Y.

PRODUCT: Tomato juice. 2,397 cases at Philadelphia, Pa., and 900 cases at South Kearny, N. J. Each case contained 24 5¾-ounce cans.

LABEL, IN PART: (Can) "Alice of old Vincennes * * * Tomato Juice."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: January 9 and 25, 1951. The Vincennes Packing Corp., Vincennes, Ind., claimant, having consented to the entry of decrees, judgments of condemnation were entered and the court ordered that the product be released under bond for segregation and destruction of the unfit portion, under the supervision of the Food and Drug Administration. Of the 1,655 cases seized at Philadelphia and the 816 cases seized at South Kearny, 394 and 269 cases, respectively, were segregated as unfit and were destroyed.

17289. Adulteration of tomato juice. U. S. v. 17 Cases * * *. (F. D. C. No. 30705. Sample No. 31964–L.)

LIBEL FILED: On or about March 19, 1951, Western District of Missouri.

ALLEGED SHIPMENT: On or about May 6, 1950, from Edcouch, Tex.

PRODUCT: 17 cases, each containing 24 1-pint, 2-ounce cans, of tomato juice at Springfield, Mo.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article was unfit for food by reason of its strong metallic taste. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: April 19, 1951. Default decree of destruction.

17290. Adulteration of tomato puree. U. S. v. 673 Cases * * *. (F. D. C. No. 30230. Sample No. 73870–K.)

LIBEL FILED: November 6, 1950, District of New Jersey.

ALLEGED SHIPMENT: On or about October 18, 1950, by Saggese & Siccardi, Inc., from New York, N. Y. This was a return shipment.

PRODUCT: 673 cases, each containing 24 1-pound, 12-ounce cans, of tomato puree at Hopewell, N. J.

LABEL, IN PART: (Can) "La Signora Brand Tomato Puree."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: April 18, 1951. Default decree of condemnation and destruction.

NUTS

17291. Adulteration of unshelled brazil nuts. U. S. v. 54 Bags * * * (and 3 other seizure actions). (F. D. C. Nos. 30190, 30191, 30198, 30204. Sample Nos. 88346–K, 88348–K, 88349–K, 88351–K.)

LIBELS FILED: December 8, 12, and 15, 1950, District of Colorado.

ALLEGED SHIPMENT: On or about October 25, 1950, by Hudson-Duncan & Co., from Portland, Oreg.

Denver, Colo.

PRODUCT: 120 bags, each containing 100 pounds, of unshelled brazil nuts at

LABEL, IN PART: "Large Washed Brazils" or "LG Washed Brazils."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of moldy brazil nuts and was otherwise unfit for food by reason of the presence of rancid brazil nuts.

DISPOSITION: January 30, 1951. The above cases having been consolidated and Hudson House, Inc., successor to Hudson-Duncan & Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation of the fit from the unfit portion, under the supervision of the Food and Drug Administration. Of 5,070 pounds, the total amount seized, 1,735 pounds were salvaged.

17292. Adulteration of unshelled brazil nuts. U. S. v. 29 Second-Hand Coffee Bags, etc. (F. D. C. No. 30172. Sample No. 85647–K.)

LIBEL FILED: November 28, 1950, District of Minnesota.

ALLEGED SHIPMENT: On or about December 3, 1949, by Wm. A. Higgins & Co., Inc., from New York, N. Y.

PRODUCT: 29 second-hand coffee bags, each containing 100 pounds, of unshelled brazil nuts, and 18 bags, each containing 100 pounds, of unshelled, large, washed brazil nuts, at Minneapolis, Minn.

LABEL, IN PART: "Holly New Crop Large Washed Brazil Nuts."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of moldy nuts.

DISPOSITION: May 15, 1951. Default decree of condemnation and destruction.

17293. Adulteration of unshelled brazil nuts. U. S. v. 2,626 Pounds * * *. (F. D. C. No. 30293. Sample No. 73047–K.)

LIBEL FILED: November 22, 1950, District of New Jersey.

ALLEGED SHIPMENT: The product was imported from Brazil on an unknown date.

PRODUCT: 2,626 pounds of unshelled brazil nuts at Jersey City, N. J.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of moldy, rancid, and otherwise decomposed brazil nuts. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: December 20, 1950. Wm. A. Camp Co., Inc., New York, N. Y., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation and destruction of all unfit nuts, under the supervision of the Food and Drug Administration. Salvaging having proved unsuccessful, the product was destroyed.

17294. Adulteration of unshelled pecans. U. S. v. 147 Bags * * *. (F. D. C. No. 30488. Sample No. 8911–L.)

LIBEL FILED: February 8, 1951, Northern District of Illinois.

ALLEGED SHIPMENT: On or about December 29, 1950, by the J. W. Renfroe Pecan Co., from Troy, Ala.

PRODUCT: 147 bags, each containing 112 pounds, of unshelled pecans at Chicago, Ill.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of moldy and decomposed pecans, and was otherwise unfit for food by reason of the presence of shriveled nuts.

DISPOSITION: March 1, 1951. Kramer Bros., Chicago, Ill., claimant having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation, under the supervision of the Food and Drug Administration. The 146 bags of nuts which were seized were shelled and sorted. These operations yielded 6,234 pounds of good nuts, and 197 pounds were rejected and destroyed.

17295. Adulteration of walnut meats. U. S. v. 38 Cases * * * (and 1 other seizure action). (F. D. C. Nos. 30152, 30168. Sample Nos. 91177–K, 91179–K.)

LIBELS FILED: November 22 and 28, 1950, District of Minnesota.

ALLEGED SHIPMENT: On or about October 3 and 16, 1950, by the Pan American Foods Co., from New York, N. Y.

PRODUCT: 38 55-pound cases of walnut halves and 38 55-pound cases of walnut quarters at Minneapolis, Minn.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of moldy and decomposed walnuts.

DISPOSITION: December 16, 1950. The Pan American Foods Co., a New York corporation, claimant, having consented to the entry of decrees, judgments of condemnation were entered and the court ordered that the product be released under bond for reconditioning or destruction, under the supervision of the Food and Drug Administration. Reconditioning was unsuccessful, and the product was destroyed.

17296. Adulteration of black walnut meats. U. S. v. 1 100-Pound Drum, etc. (and 2 other seizure actions). (F. D. C. Nos. 30386, 30387, 30831. Sample Nos. 95606–K, 95607–K, 25054–L.)

LIBELS FILED: January 19 and February 13, 1951, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about December 8 and 11, 1950, and January 5, 1951, by Arthur P. Slaughter, from Bristol, Tenn.

PRODUCT: 1 100-pound drum and 3 300-pound drums, 3 40-pound cases, and 5 50-pound cartons of black walnut kernels at Philadelphia, Pa.

LABEL, IN PART: "Tennessee Valley Blue Grass Brand Black Walnut Kernels."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments, insect fragments, and *E. coli*; and, Section 402 (a) (4), the product had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: March 15, 1951. Arthur P. Slaughter, Bristol, Tenn., claimant having consented to the entry of decrees, judgments of condemnation were entered and the court ordered that the product be released under bond for washing and pasteurizing, under the supervision of the Food and Drug Administration.

17297. Adulteration of unshelled mixed nuts. U. S. v. 616 Cartons * * *. (F. D. C. No. 30235. Sample No. 73045–K.)

LIBEL FILED: November 9, 1950, District of New Jersey.

ALLEGED SHIPMENT: The product was imported from Brazil on an unknown date.

PRODUCT: 616 25-pound cartons of unshelled mixed nuts at Jersey City, N. J.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of wormy nuts, and of a decomposed substance by reason of the presence of moldy, rancid, and otherwise decomposed nuts. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: December 5, 1950. Wm. A. Camp Co., Inc., New York, N. Y., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond for removal of the unfit nuts and, at the option of the claimant, their replacement with good nuts, under the supervision of the Food and Drug Administration. Salvage operations resulted in the segregation and destruction of 870 pounds of nuts.

POULTRY

17298. Adulteration of dressed poultry. U. S. v. Garrison Kaufman (Kaufman's Poultry Farm). Plea of guilty. Imposition of sentence suspended and defendant placed on probation for 2 years. (F. D. C. No. 30101. Sample No. 24298–L.)

INFORMATION FILED: April 10, 1951, District of New Jersey, against Garrison Kaufman; trading as Kaufman's Poultry Farm, Flemington, N. J.

ALLEGED SHIPMENT: On or about January 22, 1951, from the State of New Jersey into the State of New York.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of poultry that was contaminated with fecal material, and was, in part, otherwise unfit for food by reason of the presence of extensively bruised poultry; Section 402 (a) (4), the article had been prepared under insanitary conditions whereby it may have become contaminated with filth; and, Section 402 (a) (5), it was in part the product of diseased poultry.

DISPOSITION: May 7, 1951. A plea of guilty having been entered, the court suspended the sentence and placed the defendant on probation for 2 years.

17299. Adulteration of frozen dressed poultry. U. S. v. Howard F. Randolph (Randolph & Co.). Plea of guilty. Fine of $200, plus costs. (F. D. C. No. 30098. Sample Nos. 73148–K to 73150–K, incl.)

INFORMATION FILED: March 27, 1951, Southern District of Iowa, against Howard F. Randolph, trading as Randolph & Co., Guthrie Center, Iowa.

ALLEGED SHIPMENT: On or about September 30 and October 13, 1950, from the State of Iowa into the State of New York.

NATURE OF CHARGE: Adulteration, Section 402 (a) (5), the article was in part the product of a diseased animal.

DISPOSITION: May 18, 1951. A plea of guilty having been entered, the court imposed a fine of $200, plus costs.

17300. Adulteration of dressed poultry. U. S. v. Zanios Produce Co. Plea of nolo contendere. Fine of $100, plus costs. (F. D. C. No. 30114. Sample No. 58946–K.)

INFORMATION FILED: April 17, 1951, Northern District of Iowa, against the Zanios Produce Co., a partnership, Mason City, Iowa.

ALLEGED SHIPMENT: On or about November 16, 1950, from the State of Iowa into the State of Illinois.

NATURE OF CHARGE: Adulteration, Section 402 (a) (4) the product had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: April 17, 1951. A plea of nolo contendere having been entered, the court imposed a fine of $100, plus costs.

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PRODUCTS

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[1] (17275) Seizure contested. Contains opinion of the court, findings of fact, and conclusions of law.

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[1] (17275) Seizure contested. Contains opinion of the court, findings of fact, and conclusions of law.

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FEDERAL SECURITY AGENCY

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

17301–17350

FOODS

The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Federal Security Agency. Published by direction of the Federal Security Administrator.

CHARLES W. CRAWFORD, *Commissioner of Food and Drugs.*

WASHINGTON, D. C., *October 15, 1951.*

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CANDY, SIRUP, AND SUGAR

CANDY

17301. Adulteration of candy. U. S. v. M. J. Holloway & Co. Plea of nolo contendere. Fine of $100, plus costs. (F. D. C. No. 30115. Sample No. 92128–K.)

INFORMATION FILED: May 15, 1951, Northern District of Illinois, against M. J. Holloway & Co., a corporation, Chicago, Ill.

ALLEGED SHIPMENT: On or about November 2, 1950, from the State of Illinois into the State of New Jersey.

LABEL, IN PART: "Holloway's Milk Duds Delicious Candy 10¢ [or "5¢"] M. J. Holloway & Co., Chicago, Ill."

NATURE OF CHARGE: Adulteration, Section 402 (a) (4), the product had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: June 12, 1951. A plea of nolo contendere having been entered, the court imposed a fine of $100, plus costs.

17302. Adulteration of candy. U. S. v. 52 Cases, etc. (F. D. C. No. 30674. Sample Nos. 7068–L to 7070–L, incl.)

LIBEL FILED: February 27, 1951, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about January 9 and 22, 1951, by the Spangler Candy Co., from Bryan, Ohio.

PRODUCT: Candy. 120 cases, each containing 24 1-pound cartons, and 70 cases, each containing 24 8-ounce cartons, at Pittsburgh, Pa.

LABEL, IN PART: "Spanglers Old Fashioned Chocolate Drops," "Spanglers Chocolate Covered Thin Mints," and "Hickok's Honey Comb Chocolate Chips."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of rodent hairs; and, Section 402 (a) (4), the articles had been prepared under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: March 28, 1951. Default decree of condemnation. The court ordered that the articles be delivered to a public institution, for use as animal feed.

17303. Adulteration of candy. U. S. v. 3 Cases * * *. (F. D. C. No. 30533. Sample No. 11458–L.)

LIBEL FILED: February 6, 1951, Middle District of Tennessee.

ALLEGED SHIPMENT: On or about November 15, 1950, by the Overland Candy Co., from Chicago, Ill.

PRODUCT: 3 cases, each containing 20 boxes, of candy at Nashville, Tenn.

LABEL, IN PART: "Chocolate Malted Balls 240 Count."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product was unfit for food by reason of an obnoxious flavor.

DISPOSITION: April 16, 1951. Default decree of condemnation and destruction.

17304. Adulteration of chocolate-covered cherries. U. S. v. 20 Cartons * * *. (F. D. C. No. 30675. Sample No. 20764–L.)

LIBEL FILED: February 27, 1951, Northern District of Alabama.

ALLEGED SHIPMENT: On or about January 18, 1951, by the Lee Chocolate Co., from Atlanta, Ga.

PRODUCT: 20 cartons, each containing 24 1½-ounce packages, of chocolate-covered cherries at Birmingham, Ala.

LABEL, IN PART: "Lee of Atlanta, Ga. * * * Chocolate Covered Cherries."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments and insect fragments; and, Section 402 (a) (4), the article had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: March 28, 1951. Default decree of condemnation and destruction.

SIRUP

17305. Adulteration and misbranding of sorghum sirup. U. S. v. 118 Cases * * *. (F. D. C. No. 30478. Sample No. 84891–K.)

LIBEL FILED: January 12, 1951, Southern District of Indiana.

ALLEGED SHIPMENT: On or about November 16 and December 19, 1950, by C. H. Owen, from Joplin, Mo.

PRODUCT: 118 cases, each containing 12 ½-gallon cans, of sorghum sirup at Evansville, Ind. A portion of the cans were labeled, and others were unlabeled. Examination showed that the product was a mixture of sorghum, glucose, and sugar.

LABEL, IN PART: (Portion) "Sorghum Made of Cane Products."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), (labeled cans) a mixture of sorghum, glucose, and sugar had been substituted in whole or in part for sorghum sirup.

Misbranding, Section 403 (a), (labeled cans) the label designation "Sorghum Made of Cane Products" was false and misleading as applied to an article which was a mixture of sorghum, glucose, and sugar. Further misbranding, Sections 403 (e) (1) and (2), (unlabeled cans) the article failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the contents; and, Section 403 (i) (2), the article was fabricated from two or more ingredients, and it failed to bear a label containing the common or usual name of each such ingredient.

DISPOSITION: March 21, 1951. Federal Produce Co., Inc., Evansville, Ind., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling, under the supervision of the Food and Drug Administration.

17306. Adulteration and misbranding of sorghum sirup. U. S. v. 33 Cases, etc. (F. D. C. No. 30498. Sample No. 15951–L.)

LIBEL FILED: January 26, 1951, Western District of Oklahoma.

ALLEGED SHIPMENT: On or about December 1, 1950, from Jefferson, Tex.

PRODUCT: Sorghum sirup. 33 cases, each containing 12 64-ounce bottles, and 10 cases, each containing 6 8-pound bottles, at Oklahoma City, Okla.

LABEL, IN PART: "Sorghum Made of Cane Products."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), corn sirup and sorghum sirup had been substituted for sorghum sirup.

Misbranding, Section 403 (a), the label statement "Sorghum" was false and misleading as applied to an article containing corn sirup; and, Section 403 (b), the product was offered for sale under the name of another food, namely, sorghum sirup.

The product was adulterated and misbranded while held for sale after shipment in interstate commerce.

DISPOSITION: February 8, 1951. Clyde J. Gentry, Jefferson, Tex., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling, under the supervision of the Food and Drug Administration.

17307. Adulteration and misbranding of sorghum sirup. U. S. v. 4 Cases * * * (and 1 other seizure action). (F. D. C. Nos. 30513, 30557. Sample Nos. 15961–L, 15962–L.)

LIBELS FILED: February 3 and 16, 1951, Eastern District of Oklahoma.

ALLEGED SHIPMENT: On or about November 18 and 20, 1950, by L. T. Thompson and Clyde J. Gentry, from Jefferson, Tex.

PRODUCT: Sorghum sirup. 4 cases, each containing 12 64-ounce cans, and 5 cases, each containing 12 4-pound cans, at Ada, Okla.

LABEL, IN PART: "Sorghum Made of Cane Products."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), sucrose (sugar) and glucose (corn sugar) had been substituted in whole or in part for sorghum sirup.

Misbranding, Section 403 (a), the label statement "Sorghum" was false and misleading as applied to an article that was not sorghum sirup; and, Section 403 (b), the article was offered for sale under the name of another food.

DISPOSITION: February 13 and May 28, 1951. Default decrees of condemnation and destruction.

17308. Adulteration and misbranding of sorghum sirup. U. S. v. 55 Tins * * *. (F. D. C. No. 30514. Sample No. 15960–L.)

LIBEL FILED: January 31, 1951, Western District of Oklahoma.

ALLEGED SHIPMENT: On or about January 2, 1951, from Jefferson, Tex.

PRODUCT: 55 64-ounce tins of sorghum sirup at Shawnee, Okla.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), an article containing sucrose and glucose had been substituted in whole or in part for sorghum sirup.

Misbranding, Section 403 (a), the label statement "Sorghum" was false and misleading as applied to an article that was not sorghum sirup; and, Section 403 (b), the product was offered for sale under the name of another food, namely, "Sorghum."

The product was adulterated and misbranded while held for sale after shipment in interstate commerce.

DISPOSITION: March 20, 1951. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution.

17309. Adulteration and misbranding of sorghum sirup. U. S. v. 410 Cans * * *. (F. D. C. No. 30632. Sample No. 31056–L.)

LIBEL FILED: February 13, 1951, Western District of Tennessee; amended libel filed February 19, 1951.

ALLEGED SHIPMENT: On or about January 10, 1951, by M. P. Amis, from Conehatta, Miss.

PRODUCT: 410 4½-pound cans of sorghum sirup at Milan, Tenn.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a mixture of sorghum, corn sirup, and sugar had been substituted in whole or in part for sorghum.

Misbranding, Section 403 (b), the product was offered for sale under the name of another food, namely, sorghum; Sections 403 (e) (1) and (2), the product was food in package form, and it failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the contents; and, Section 403 (i) (2), the product was fabricated from two or more ingredients, and it failed to bear a label containing the common or usual name of each ingredient.

DISPOSITION: March 27, 1951. Default decree of condemnation. The court ordered that the product be delivered to a public institution.

SUGAR

17310. Adulteration of sugar. U. S. v. 81 Unlabeled Bags * * *. (F. D. C. No. 30559. Sample No. 32059–L.)

LIBEL FILED: February 13, 1951, Western District of Arkansas.

ALLEGED SHIPMENT: On or about December 15, 1950, and January 2 and 15, 1951, by F. S. Herring, from Springfield, Mo.

PRODUCT: 81 unlabeled bags, containing from 50 to 95 pounds, of sugar located in the State of Arkansas at a place adjacent to Blue Eye, Mo.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of sand, dirt, rodent pellets, and miscellaneous debris.

DISPOSITION: March 27, 1951. Default decree of condemnation and destruction.

CEREALS AND CEREAL PRODUCTS

BAKERY PRODUCTS

17311. Misbranding of soybean bread, Swedish rye bread, and buffet rye bread. U. S. v. Oroweat Baking Co., Inc. Plea of nolo contendere. Fine, $600. (F. D. C. No. 30102. Sample Nos. 71799–K, 71806–K, 71808–K.)

INFORMATION FILED: May 8, 1951, Southern District of California, against Oroweat Baking Co., Inc., Los Angeles, Calif.

ALLEGED SHIPMENT: On or about September 22, October 26, and November 1, 1950, from the State of California into the State of Arizona.

LABEL, IN PART: "Soya Bean Bread Weight 1 Lb.," "Buffet Rye Weight 16 Oz.," and "Weight 1 lb. Swedish Rye."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the products were in package form and failed to bear labels containing an accurate statement of the quantity of the contents since the bread weighed less than the declared weight.

DISPOSITION: May 21, 1951. A plea of nolo contendere having been entered, the court imposed a fine of $600.

17312. Misbranding of crackers. U. S. v. 199 Cases * * *. (F. D. C. No. 30427. Sample No. 21793–L.)

LIBEL FILED: February 9, 1951, District of Puerto Rico.

ALLEGED SHIPMENT: On or about January 22, 1951, by Klotz Cracker Factory, Ltd., from New Orleans, La.

PRODUCT: 199 cases, each containing 6 tins, of crackers at San Juan, P. R.

LABEL, IN PART: "Quality Sodas Excelsior Galletas Finas Especiales Net Weight 2 lbs. * * * Approximadamente 155 Galletas."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label statements "Net Weight 2 lbs. * * * Aproximadamente 155 Galletas" were false and misleading since the product contained less than the declared weight and number of units in the package; and, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents. Examination showed that the tins were short-weight and contained an average of 136 crackers (galletas).

DISPOSITION: February 19 and March 9, 1951. Ballester Hermanos, Inc., San Juan, P. R., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled, under the supervision of the Puerto Rico representative of the Federal Security Agency.

MACARONI AND NOODLE PRODUCTS

17313. Adulteration of noodles. U. S. v. 10 Cases, etc. (F. D. C. No. 30634. Sample No. 9326–L.)

LIBEL FILED: February 17, 1951, Northern District of Indiana.

ALLEGED SHIPMENT: On or about January 13, 1951, by Mrs. Janus Noodle Co., from Chicago, Ill.

PRODUCT: Noodles. 10 cases, each containing 12 16-ounce packages, and 15 cases, each containing 24 8-ounce packages, at South Bend, Ind.

LABEL, IN PART: "Defiance Brand Kluski."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs; and, Section 402 (a) (4), the product had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: May 5, 1951, Default decree of condemnation and destruction.

17314. Adulteration of spaghetti. U. S. v. 9 Cases, etc. (F. D. C. No. 30484. Sample Nos. 13151–L, 13153–L.)

LIBEL FILED: January 23, 1951, District of Colorado.

ALLEGED SHIPMENT: On or about December 28, 1950, by Budget Pack, Inc., from Los Angeles, Calif.

PRODUCT: 12 cases, each containing 24 packages, of spaghetti at Denver, Colo.

LABEL, IN PART: (Package) "Budget Packs Americana Brand Spaghetti 12 Ozs." or "Net Weight One Pound Budget Pack Brand Italian Style Spaghetti."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and rodent hair fragments; and, Section 402 (a) (4), the product had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: March 21, 1951. Default decree of condemnation and destruction.

MISCELLANEOUS CEREALS

17315. Adulteration of unpopped popcorn. U. S. v. Blevins Popcorn Co., Inc. Plea of guilty. Fine, $600. (F. D. C. No. 30089. Sample Nos. 67460–K, 84570–K, 92665–K.)

INFORMATION FILED: March 15, 1951, Southern District of Ohio, against Blevins Popcorn Co., Inc., Arcanum, Ohio.

ALLEGED SHIPMENT: On or about September 23 and 28, 1950, from the State of Ohio into the States of Indiana and Virginia.

LABEL, IN PART: (Sack) "Blevins Bee Hive Hybrid Popcorn Blevins Popcorn Co. Nashville, Tenn. Nashville, Tenn.-Arcanum, Ohio 100 Lbs."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insects, insect parts, rodent hair fragments, and insect- and rodent-damaged kernels; and, Section 402 (a) (4), the product had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: May 24, 1951. A plea of guilty having been entered, the court imposed a fine of $600.

17316. Adulteration of rice. U. S. v. 735 Bags * * *. (F. D. C. No. 30496. Sample Nos. 27891–L, 27892–L.)

LIBEL FILED: January 29, 1951, Northern District of California.

ALLEGED SHIPMENT: On or about March 21 and July 25, 1950, from Houston, Tex., and Crowley, La.

PRODUCT: 735 bags, each containing 100 pounds, of rice at San Francisco, Calif.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and insect excreta. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: February 13, 1951. J. A. Lewis, Oakland, Calif., and Lee & Lamb, San Francisco, Calif., having appeared as claimants for 135 sacks and 600 sacks, respectively, and having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for the purpose of cleaning and fumigating, under the supervision of the Food and Drug Administration. 732 100-pound bags and 35 pounds of the product were recovered as the result of the recleaning operations. The waste material was destroyed.

17317. Adulteration of wheat. U. S. v. The Wheeler Cooperative Equity Union and Louis W. Dean. Pleas of guilty. Joint fine of $100, plus costs. (F. D. C. No. 30562. Sample No. 21599–K.)

INFORMATION FILED: February 1, 1951, District of Kansas, against The Wheeler Cooperative Equity Union, a corporation, Wheeler, Kans., and Louis W. Dean, manager of the corporation.

ALLEGED SHIPMENT: On or about August 30, 1950, from the State of Kansas into the State of Missouri.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product was unfit for food by reason of the presence of musty and otherwise damaged wheat.

DISPOSITION: March 19, 1951. Pleas of guilty having been entered, the court imposed a joint fine of $100, plus costs, against the defendants.

DAIRY PRODUCTS

BUTTER

17318. Adulteration of butter. U. S. v. 7 Boxes (420 pounds) * * *. (F. D. C. No. 30736. Sample No. 19435–L.)

LIBEL FILED: February 7, 1951, Northern District of Illinois.

ALLEGED SHIPMENT: On or about January 17, 1951, by the Karlstad Cooperative Creamery, from Minneapolis, Minn.

PRODUCT: 7 boxes, each containing 60 pounds, of butter at Chicago, Ill.

LABEL, IN PART: "Creamery Butter Distributed By H. C. Christians Co. Chicago, Ill."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: March 20, 1951. The H. C. Christians Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for rechurning and reworking, under the supervision of the Food and Drug Administration.

17319. Adulteration of butter. U. S. v. 37 Cartons (2,516 pounds) * * *. (F. D. C. No. 30737. Sample No. 29960–L.)

LIBEL FILED: On or about February 2, 1951, Western District of Washington.

ALLEGED SHIPMENT: On or about January 29, 1951, by the Cottonwood Dairy Products, from Cottonwood, Idaho.

PRODUCT: 37 cartons, each containing 68 pounds, of butter at Seattle, Wash.

LABEL, IN PART: "Butter 68 Lbs. Net Cottonwood Dairy Products, Cottonwood, Idaho."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: February 7, 1951. The Cottonwood Dairy Products, claimant, having admitted the allegations contained in the libel, judgment of condemnation was entered and the court ordered that the product be released under bond for rechurning, under the supervision of the Food and Drug Administration.

17320. Adulteration of butter. U. S. v. 17 Cartons (1,156 pounds) * * *. (F. D. C. No. 30738. Sample Nos. 29961–L, 29962–L.)

LIBEL FILED: February 9, 1951, Western District of Washington.

ALLEGED SHIPMENT: On or about January 29, 1951, by Consolidated Dairies, from Ronan, Mont.

PRODUCT: 17 cartons, each containing 68 pounds, of butter at Seattle, Wash.

LABEL, IN PART: "Sweet Cream Ship to Consolidated Dairy Products Co. Seattle, Wash."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: February 20, 1951. Consolidated Dairies of Lake County, Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for rechurning, under the supervision of the Food and Drug Administration.

CHEESE

17321. Adulteration of Cheddar cheese. U. S. v. 290 Cases * * *. (F. D. C. No. 30500. Sample Nos. 29836–L, 29837–L, 30012–L.)

LIBEL FILED: February 5, 1951, Western District of Washington.

ALLEGED SHIPMENT: On or about November 13 and December 19, 1950, by the H. C. Christians Co., from Chicago, Ill.

PRODUCT: 290 cases, containing a total of 3,336 pounds, of Cheddar cheese at Seattle, Wash.

LABEL, IN PART: "Wisconsin State Cheddar Cheese Sharp."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance and was unfit for food by reason of being moldy.

DISPOSITION: February 19, 1951. Turner & Pease Co., Inc., Seattle, Wash., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be reconditioned by trimming, so that all moldy and decomposed portions would be removed. Of the 3,069 pounds which were seized, 1,303 pounds were salvaged and 1,766 pounds were rejected as unfit.

17322. Adulteration of Cheddar cheese. U. S. v. 6 Cheddars * * *. (F. D. C. No. 30724. Sample No. 15060–L.)

LIBEL FILED: March 28, 1951, District of Nebraska.

ALLEGED SHIPMENT: On or about July 7 and December 27, 1950, from Plymouth, Wis.

PRODUCT: 6 Cheddars, each containing approximately 70 pounds, of cheese at Omaha, Nebr.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of mites. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: May 11, 1951. Default decree of condemnation and destruction.

FEEDS AND GRAINS

17323. Misbranding of cottonseed meal. U. S. v. Nashville Cotton Oil Mill Corp. (Famous Feed Mills). Plea of nolo contendere. Fine, $250. (F. D. C. No. 30032. Sample No. 39376–K.)

INFORMATION FILED: February 23, 1951, Middle District of Tennessee, against the Nashville Cotton Oil Mill Corp., trading as the Famous Feed Mills, Nashville, Tenn.

ALLEGED SHIPMENT: On or about March 22, 1950, from the State of Tennessee into the State of Kentucky.

LABEL, IN PART: "100 Pounds Net 41% Protein Cottonseed Meal Registered by Nashville Cotton Oil Mill Corp. Nashville, Tennessee Guaranteed Analysis Protein, not less than ——— 41.00 Per Cent."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label statement "41% Protein * * * Guaranteed Analysis Protein, not less than ——— 41.00 Per Cent" was false and misleading since the product contained less than 41 percent of protein.

DISPOSITION: April 3, 1951. A plea of nolo contendere having been entered, the court imposed a fine of $250.

17324. Adulteration and misbranding of pulverized barley and pulverized white oats. U. S. v. Flambeau Milling Co. Plea of nolo contendere. Fine, $400. (F. D. C. No. 30085. Sample Nos. 79413–K, 79414–K.)

INFORMATION FILED: February 14, 1951, Western District of Wisconsin, against the Flambeau Milling Co., Phillips, Wis.

ALLEGED SHIPMENT: On or about September 22, 1950, from the State of Wisconsin into the State of Massachusetts.

LABEL, IN PART: "Pulverized Barley Guaranteed Analysis * * * Crude Fibre, Max. 9.00%" and "Pulverized White Oats Guaranteed Analysis * * * Fibre, Max. 12.75%."

NATURE OF CHARGE: Adulteration, Sections 402 (b) (2) and (4), substances, namely, dirt, chaff, ground weed seeds, and ground oats, had been substituted for the pulverized barley, and dirt, chaff, ground weed seeds, and barley had been substituted for the pulverized white oats; and such substances had been added to, and mixed and packed with, the products so as to increase their bulk and weight, reduce their quality, and make them appear better and of greater value than they were.

Misbranding, Section 403 (a), the label statements "Pulverized Barley * * * Crude Fibre, Max. 9.00%" and "Pulverized White Oats * * * Fibre, Max. 12.75%" were false and misleading since the products contained the adulterants hereinbefore stated; and, in addition, the pulverized barley contained in excess of 9 percent of fiber, and the pulverized white oats contained in excess of 12.75 percent of fiber..

DISPOSITION: February 19, 1951. A plea of nolo contendere having been entered, the court imposed a fine of $400.

FISH AND SHELLFISH

17325. Adulteration of frozen flounder fillets. U. S. v. 19 Cartons * * *. (F. D. C. No. 29901. Sample No. 81293–K.)

LIBEL FILED: September 26, 1950, Middle District of Pennsylvania.

ALLEGED SHIPMENT: On or about September 18, 1950, by J. Adams' & Co., Inc., from Boston, Mass.

PRODUCT: 19 cartons, each containing 10 5-pound boxes, of frozen flounder fillets at Lebanon, Pa.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a putrid substance.

DISPOSITION: March 8, 1951. Default decree of condemnation and destruction.

17326. Misbranding of frozen perch fillets. U. S. v. 80 Cases * * *. (F. D. C. No. 27935. Sample No. 36871–K.)

LIBEL FILED: October 21, 1949, Western District of Washington.

ALLEGED SHIPMENT: On or about July 14, 1949, by the Yaquina Bay Fish Co., from Newport, Oreg.

PRODUCT: 80 cases, each containing 6 5-pound packages, of frozen perch fillets at Seattle, Wash.

LABEL, IN PART: "Newport Brand Ocean Perch Fillets."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label statement "Ocean Perch" was false and misleading as applied to an article consisting of rockfish.

DISPOSITION: On December 2, 1949, the Yaquina Bay Fish Co., claimant, filed an answer to the libel, denying that the product was misbranded. On December 29, 1949, the Government filed a motion to strike claimant's answer, which motion was denied on March 20, 1950. On June 22, 1951, the claimant having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling, under the supervision of the Food and Drug Administration. The relabeling was to include, specifically, the use of the name "Pacific Ocean Perch."

17327. Adulteration of canned salmon. U. S. v. 49 Cases * * *. (F. D. C. No. 30505. Sample No. 13054–L.)

LIBEL FILED: January 31, 1951, District of Colorado.

ALLEGED SHIPMENT: On or about November 15, 1950, from Seattle, Wash.

PRODUCT: 49 cases, each containing 48 7½-ounce cans, of salmon at Denver, Colo. This product was undergoing progressive spoilage.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: March 16, 1951. The Dungeness Sales Co., Seattle, Wash., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for segregation of the fit from the unfit, under the supervision of the Food and Drug Administration. Of the 45 cases and 17 cans of the product which were seized, 4 cases and 7 cans were destroyed and the remainder was released as good.

17328. Adulteration of canned minced clams. U. S. v. 127 Cases * * *. (F. D. C. No. 30691. Sample No. 12870–L.)

LIBEL FILED: March 20, 1951, District of Colorado.

ALLEGED SHIPMENT: On or about October 30, 1950, by G. P. Halferty & Co., from Seattle, Wash.

PRODUCT: 127 cases, each containing 48 7-ounce cans, of minced clams at Denver, Colo. Examination of the product showed the presence of excessive packing medium.

LABEL, IN PART: "Pioneer Brand Minced Sea Clams."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), diluted clam juice had been substituted in part for minced clams.

DISPOSITION: On April 5, 1951, G. P. Halferty & Co. having moved that a certain code consisting of 29 42/48 cases be released, alleging that the product therein was full pack, and no objection having been made thereto by the Government, the court ordered that the said code be delivered to the claimant. On May 17, 1951, the claimant having consented to the entry of a decree with respect to the remainder of the product, judgment of condemnation was entered and it was ordered that 73 33/48 cases of the product be released under bond for relabeling and that the remaining 19 19/48 cases, which examination had shown were full pack, be released.

17329. Adulteration and misbranding of oysters. U. S. v. 17 Boxes * * *. (F. D. C. No. 30678. Sample No. 10777–L.)

LIBEL FILED: March 1, 1951, Southern District of Indiana.

ALLEGED SHIPMENT: On or about February 17, 1951, by W. F. Morgan & Son, from Weems, Va.

PRODUCT: 17 boxes, each containing 96 1-pint cans, of oysters at Indianapolis, Ind.

LABEL, IN PART: "Booth Fresh Atlantic Coast Oysters—Standards VA 92."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), water had been substituted in part for oysters; and, Section 402 (b) (4), water had been added, mixed, and packed with the product so as to increase its bulk or weight and reduce its quality.

Misbranding, Section 403 (g) (1), the article purported to be and was represented as oysters, and it failed to conform to the definition and standard of identity for oysters since it was not thoroughly drained, as required by the standard.

DISPOSITION: April 26, 1951. Default decree of condemnation and destruction.

FRUITS AND VEGETABLES

CANNED FRUIT

17330. Adulteration of canned sliced apples. U. S. v. 165 Cases * * *. (F. D. C. No. 30689. Sample No. 28268–L.)

LIBEL FILED: March 13, 1951, Northern District of California.

ALLEGED SHIPMENT: On or about October 18, 1950, from Brigham City, Utah.

PRODUCT: 165 cases, each containing 6 5-pound, 15-ounce cans, of sliced apples at Sacramento, Calif.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of its chemical decomposition. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: May 11, 1951. Default decree of condemnation and destruction.

17331. Adulteration of canned prunes. U. S. v. 536 Cases * * *. (F. D. C. No. 30731. Sample Nos. 18766–L, 19134–L.)

LIBEL FILED: March 30, 1951, Southern District of Iowa.

ALLEGED SHIPMENT: On or about October 11, 1950, by J. C. Tracy & Co., from Dallas, Oreg.

PRODUCT: 536 cases, each containing 6 6-pound, 12-ounce cans, of prunes at Chariton, Iowa.

LABEL, IN PART: "Rose Valley Brand Oregon Prune Plums."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed prunes.

DISPOSITION: May 10, 1951. Default decree of condemnation and destruction.

DRIED FRUIT

17332. Adulteration of apple chops. U. S. v. 152 Bags * * *. (F. D. C. No. 30730. Sample No. 10992–L.)

LIBEL FILED: March 30, 1951, Southern District of Ohio.

ALLEGED SHIPMENT: On or about January 3, 1951, by the Battletown Fruit Co., from Berryville, Va.

PRODUCT: 152 bags of apple chops, each bag containing 40 pounds, at Cincinnati, Ohio.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta and insects; and, Section 402 (a) (4), the product had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: June 6, 1951. Default decree of condemnation and destruction.

17333. Adulteration of dried apricots. U. S. v. 30 Boxes * * *. (F. D. C. No. 30688. Sample No. 35870–K.)

LIBEL FILED: March 7, 1951, District of Hawaii.

ALLEGED SHIPMENT: On or about November 24, 1950, by Theo H. Davies & Co., Ltd., from San Francisco, Calif.

PRODUCT: 30 25-pound boxes of dried apricots at Hilo, T. H.

LABEL, IN PART: "Hunt's Whole Dried Apricots."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and insect excreta.

DISPOSITION: April 12, 1951. Theo H. Davies & Co., Ltd., claimant, having consented to the entry of a decree, judgment of condemnation and forfeiture was entered and the court ordered that the product be destroyed.

VEGETABLES

17334. Misbranding of canned green beans. U. S. v. 488 Cases * * *. (F. D. C. No. 30725. Sample No. 11076–L.)

LIBEL FILED: March 26, 1951, Southern District of Ohio.

ALLEGED SHIPMENT: On or about March 2, 1951, by the Paulus Bros. Packing Co., from Salem, Oreg.

PRODUCT: 488 cases, each containing 6 6-pound, 5-ounce cans, of green beans at Dayton, Ohio.

LABEL, IN PART: (Can) "Honey Grove Green Beans."

NATURE OF CHARGE: Misbranding, Section 403 (g) (1), the product purported to be and was represented as canned, cut green beans, and it failed to comply with the standard of quality since it contained an excessive number of tough strings, and its label failed to bear a statement, as specified by regulations, that it fell below such standard.

DISPOSITION: May 2, 1951. The Paulus Bros. Packing Co., claimant, having admitted the allegations contained in the libel, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling, under the supervision of the Food and Drug Administration.

17335. Adulteration and misbranding of canned mustard greens. U. S. v. 31 Cases * * *. (F. D. C. No. 30751. Sample No. 12869–L.)

LIBEL FILED: March 15, 1951, District of New Mexico.

ALLEGED SHIPMENT: On or about January 16, 1951, by the Taormina Co., from Donna, Tex.

PRODUCT: 31 cases, each containing 24 cans, of mustard greens at Albuquerque, N. Mex.

LABEL, IN PART: (Can) "Net Wt. 1 Lb. 2 Oz. [or "1 Lb. 3 Oz."] Del Haven Brand Mustard Greens."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of worms.

Misbranding (1-pound, 3-ounce cans), Section 403 (e) (2), the product was food in package form, and it failed to bear a label containing an accurate statement of the quantity of the contents. (The cans contained less than the declared weight.)

DISPOSITION: April 16, 1951. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution, for use as animal feed.

17336. Adulteration of canned spinach. U. S. v. 444 Cases * * * (and 5 other seizure actions). (F. D. C. Nos. 30511, 30552, 30650, 30662, 30680, 30739. Sample Nos. 771–L, 9327–L, 10774–L, 10775–L, 11869–L, 31265–L, 31359–L, 31957–L.)

LIBELS FILED: February 2, 15, and 21, and on or about February 26 and March 2 and 23, 1951, Eastern and Western Districts of Missouri, Northern and Southern Districts of Indiana, Western District of Kentucky, and Eastern District of South Carolina.

ALLEGED SHIPMENT: On or about October 20 and December 7 and 20, 1950, and January 6 and 8 and February 21, 1951, by the Arkansas Valley Canning Co., from Van Buren, Ark.

PRODUCT: Spinach. 444 cases at South Bend, Ind.; 109 cases at Kokomo, Ind.; 130 cases at Orangeburg, S. C.; 57 cases at St. Louis, Mo.; and 48 cases at Joplin, Mo. Each case contained 24 1-pound, 2-ounce cans. In addition there were 14 cases, each containing 24 1-pound, 11-ounce cans, at Kokomo, Ind., and 80 cases, each containing 6 6-pound, 2-ounce cans, at Louisville, Ky.

LABEL, IN PART: "Defiance [or "Rebecca Lee Brand" or "Wulfing's Brand"] Spinach."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of worms.

DISPOSITION: February 28, March 26, and May 1, 2, 5, and 28, 1951. Default decrees of condemnation. The court ordered that the product be destroyed, with the exception of the 80 cases at Louisville, Ky., which were ordered delivered to a public institution, for use as animal feed.

17337. Adulteration of canned spinach. U. S. v. 75 Cases * * * (and 3 other seizure actions). (F. D. C. Nos. 30521, 30532, 30659, 30698. Sample Nos. 11062–L, 11265–L, 11266–L, 11571–L, 11572–L, 31492–L.)

LIBELS FILED: February 1, 5, and 20, and March 15, 1951, Eastern District of Missouri and Southern and Northern Districts of Ohio.

ALLEGED SHIPMENT: On or about November 8 and 25 and December 2, 16, and 18, 1950, by the Steele Canning Co., from Springdale, Ark.

PRODUCT: Spinach. 75 cases, each case containing 24 1-pound, 11-ounce cans, at St. Louis, Mo.; 106 cases, each case containing 24 1-pound, 2-ounce cans, and 108 cases, each case containing 24 1-pound, 11-ounce cans, at Findlay, Ohio; 69 cases, each case containing 24 1-pound, 2-ounce cans, at Cincinnati, Ohio; and 68 cases, each case containing 24 1-pound, 11-ounce cans, and 159 cases, each case containing 6 6-pound, 2-ounce cans, at Portsmouth, Ohio.

LABEL, IN PART: (Can) "Nancy Lee [or "Clarion" or "Little Mill"] Brand Spinach."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of worms.

DISPOSITION: February 28, March 20, and April 12, 1951. Default decrees of condemnation and destruction.

17338. Adulteration of canned spinach. U. S. v. 110 Cases, etc. (and 1 other seizure action). (F. D. C. Nos. 30649, 30652. Sample Nos. 31868–L to 31871–L, incl.)

LIBELS FILED: February 16 and 20, 1951, Eastern District of Missouri and Southern District of Illinois.

ALLEGED SHIPMENT: On or about January 22 and 23, 1951, by the Van Buren Canning Co., from Van Buren, Ark.

PRODUCT: Spinach. 265 cases at Alton, Ill., and 49 cases at St. Louis, Mo. Each case contained 24 1-pound, 2-ounce cans.

LABEL, IN PART: "Our Value [or "Honor," "Red and White," or "Gooding"] Spinach."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of worms.

DISPOSITION: March 12 and 14, 1951. Default decrees of condemnation and destruction.

17339. Adulteration of canned spinach. U. S. v. 80 Cases * * * (and 1 other seizure action). (F. D. C. Nos. 30527, 30551. Sample Nos. 11652–L, 31271–L.)

LIBELS FILED: On or about February 2 and 13, 1951, Southern District of Ohio and Eastern District of Missouri.

ALLEGED SHIPMENT: On or about October 21 and November 16, 1950, by the Good Canning Co., from Fort Smith, Ark.

PRODUCT: Spinach. 80 cases, each containing 6 6-pound, 2-ounce cans, at Cincinnati, Ohio, and 41 cases, each containing 24 15-ounce cans, at St. Louis, Mo.

LABEL, IN PART: "Dependable Spinach" or "Dependable Brand Fancy Spinach."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of worms.

DISPOSITION: March 6 and 21, 1951. Default decrees of condemnation and destruction.

TOMATOES AND TOMATO PRODUCTS

17340. Misbranding of canned tomatoes. U. S. v. 647 Cases * * *. (F. D. C. No. 30633. Sample No. 19438–L.)

LIBEL FILED: February 16, 1951, District of Minnesota.

ALLEGED SHIPMENT: On or about October 16, 1950, by the Howard Canning Co., from Pendleton, Ind.

PRODUCT: 647 cases, each containing 6 6-pound, 6-ounce cans, of tomatoes at Minneapolis, Minn.

LABEL, IN PART: (Can) "Howards Pride Choice Indiana Tomatoes."

NATURE OF CHARGE: Misbranding, Section 403 (g) (2), the product failed to conform to the definition and standard of identity for canned tomatoes since it contained the optional ingredient, namely, calcium salts, and its label failed to bear a statement that calcium salts had been added, as required by the regulations.

DISPOSITION: March 30, 1951. The Howard Canning Co., Indianapolis, Ind., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling, under the supervision of the Food and Drug Administration.

17341. Adulteration of tomato juice. U. S. v. 250 Cases, etc. (F. D. C. No. 30682. Sample Nos. 11365–L to 11367–L, incl.)

LIBEL FILED: March 12, 1951, Northern District of Ohio.

ALLEGED SHIPMENT: During the months of October or November 1950, from Chicago, Ill., and Detroit, Mich. These were return shipments.

PRODUCT: 500 cases, each containing 12 1-quart, 14-ounce cans, of tomato juice at Blakeslee, Ohio.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: April 12, 1951. Default decree of condemnation and destruction.

17342. Adulteration of tomato juice. U. S. v. 114 Cases * * *. (F. D. C. No. 30714. Sample No. 10324–L.)

LIBEL FILED: March 20, 1951, Eastern District of Michigan.

ALLEGED SHIPMENT: On or about December 11 and 20, 1950, by the Clyde Canning Co., from Clyde, Ohio.

PRODUCT: 114 cases, each containing 12 1-quart, 14-ounce cans, of tomato juice at Detroit, Mich.

LABEL, IN PART: "'Defiance Tomato Juice."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: May 25, 1951. Default decree of condemnation. The court ordered that the product be delivered to a public institution, for use as animal feed.

MEAT AND POULTRY

17343. Adulteration of frozen rabbits. U. S. v. 23 Crates * * *. (F. D. C. No. 30415. Sample No. 24291–L.)

LIBEL FILED: February 5, 1951, Southern District of New York.

ALLEGED SHIPMENT: On or about January 5, 1951, by J. W. Bailey, Zenda, Kans.

PRODUCT: 23 crates, containing approximately 1,600 pounds, of frozen rabbits at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of fecal matter and hairs.

DISPOSITION: February 23, 1951. Steers & Menke, Inc., New York, N. Y., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond, to be disposed of in compliance with the law, under the supervision of the Food and Drug Administration. 185 pounds of the product were rejected and delivered to a rendering plant.

17344. Adulteration of dressed poultry. U. S. v. 302 Boxes * * *. (F. D. C. No. 30459. Sample No. 89875–K.)

LIBEL FILED: December 28, 1950, District of Nebraska.

ALLEGED SHIPMENT: On or about December 10, 1950, by the Canton Produce Co., Canton, S. Dak.

PRODUCT: 302 50-pound boxes of dressed poultry at York, Nebr.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta; and, Section 402 (a) (4), the product had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: March 16, 1951. Lipsman-Fulkerson & Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond, conditioned that any diseased poultry be destroyed and that the remainder be cleaned by thorough scrubbing, under the supervision of the Food and Drug Administration. 635 boxes of the product were seized because of the intermingling of the 302 boxes with another lot, and 24 birds were found to be diseased and were destroyed.

17345. Adulteration of dressed turkeys. U. S. v. 3,000 Pounds * * *. (F. D. C. No. 30330. Sample No. 73155–K.)

LIBEL FILED: December 11, 1950, Southern District of New York.

ALLEGED SHIPMENT: On or about November 9, 1950, by C. A. Swanson & Sons, from Omaha, Nebr.

PRODUCT: 3,000 pounds of dressed turkeys, in 38 crates, at New York, N. Y.

LABEL, IN PART: (Crate) "Golden Brest Brand Turkeys Packed By Central Cooperative Turkey Producers, Ellsworth, Iowa."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of birds contaminated with excreta; and, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal or of an animal which had died otherwise than by slaughter.

DISPOSITION: February 6, 1951. C. A. Swanson & Sons, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond for salvaging by removing all portions of the birds that were contaminated with filth and by segregating and destroying all diseased and otherwise unfit birds, under the supervision of the Food and Drug Administration. Of the 38 crates of birds which were seized, 26 crates were released as good.

NUTS

17346. Adulteration of unshelled mixed nuts. U. S. v. 79 Cases * * *. (F. D. C. No. 30220. Sample No. 90662–K.)

LIBEL FILED: December 20, 1950, Western District of Washington.

ALLEGED SHIPMENT: On or about December 2, 1950, by Hudson-Duncan & Co., from Portland, Oreg.

PRODUCT: 79 cases, each containing 24 1-pound bags, of unshelled mixed nuts at Seattle, Wash.

LABEL, IN PART: "DeMartini Mixed Nuts Walnuts, Almonds, Brazils, Pecans, Filberts."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect-infested nuts, and of a decomposed substance by reason of the presence of moldy nuts.

DISPOSITION: February 9, 1951. Hudson House, Inc., formerly Hudson-Duncan & Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released for segregation and sorting of the fit nuts from the unfit, under the supervision of the Food and Drug Administration. 2,166 pounds of nuts were seized, and 966 pounds of this amount were found to be bad and were destroyed.

OLEOMARGARINE

17347. Adulteration of oleomargarine. U. S. v. 78 Cartons * * *. (F. D. C. No. 30702. Sample No. 27922–L.)

LIBEL FILED: March 16, 1951, Northern District of California.

ALLEGED SHIPMENT: On or about November 16 and December 30, 1950, from Cincinnati, Ohio.

PRODUCT: 78 cartons, each containing 24 1-pound packages, of oleomargarine at Oakland, Calif.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of mold. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: March 29, 1951. Default decree of condemnation and destruction.

17348. Adulteration of oleomargarine. U. S. v. 30 Cases * * *. (F. D. C. No. 30700. Sample No. 27917–L.)

LIBEL FILED: March 21, 1951, Southern District of California.

ALLEGED SHIPMENT: On or about December 30, 1950, from Cincinnati, Ohio.

PRODUCT: 30 cases, each containing 24 1-pound packages, of oleomargarine at Los Angeles, Calif.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of mold. The product was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: April 23, 1951. Default decree of condemnation. The court ordered that the product be sold for use as soap stock, conditioned that it first be denatured at the expense of the purchaser, under the supervision of the Food and Drug Administration.

17349. Adulteration and misbranding of oleomargarine. U. S. v. 13 Cases * * *. (F. D. C. No. 30701. Sample No. 18852–L.)

LIBEL FILED: March 14, 1951, Northern District of Iowa.

ALLEGED SHIPMENT: On or about January 24, 1951, by the Cudahy Packing Co., from Omaha, Nebr.

PRODUCT: 13 cases, each containing 24 1-pound cartons, of oleomargarine at Cedar Rapids, Iowa.

LABEL, IN PART: (Carton) "Delrich E-Z Color Pak Vegetable Oleomargarine."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent fat had been substituted for oleomargarine.

Misbranding, Section 403 (g) (1), the product purported to be and was represented as oleomargarine, and it failed to conform to the definition and standard of identity for oleomargarine since it contained less than 80 percent fat, the minimum permitted by the standard.

DISPOSITION: May 2, 1951. Default decree of condemnation. The court ordered that the product be delivered to a charitable institution.

17350. Adulteration and misbranding of oleomargarine. U. S. v. 12 Cases * * *. (F. D. C. No. 30541. Sample No. 19012–L.)

LIBEL FILED: February 7, 1951, Northern District of Iowa.

ALLEGED SHIPMENT: On or about January 3 and 8, 1951, by the Cudahy Packing Co., from Omaha, Nebr.

PRODUCT: 12 cases, each containing 24 1-pound packages, of oleomargarine at Sioux City, Iowa.

LABEL, IN PART: "Cudahy Delrich E-Z Color Pak Vegetable Oleomargarine."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent fat had been substituted for oleomargarine.

Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for oleomargarine since it contained less than 80 percent fat, the minimum permitted by the definition and standard.

DISPOSITION: March 14, 1951. Default decree of condemnation. The court ordered that the product be delivered to charitable institutions.

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